PUBLISHED MONTHLY.

BIOGRAPHICAL SKETCHES

OF

EMINENT

AMERICAN LAWYERS,

NOW LIVING:

With well executed Portraits.

"PHILOSOPHY TEACHING BY EXAMPLE."

EDITED BY JOHN LIVINGSTON,

OF THE NEW-YORK BAR,

EDITOR OF THE MONTHLY LAW MAGAZINE.

APRIL & MAY, 1852.

Parts II & III.

EACH PART COMPLETE IN ITSELF.

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April and May, 1852.

☞ These Portraits, having been engraved by the first Artists, expressly for this work, from daguerreotypes recently taken, may be relied on as correct likenesses of their originals.

☞ The memoirs of Judges Bullock, Wilson, Nash, Rost, Pirtle and Battle, appeared in the first part, but their portraits not being ready when that was issued are prefixed to the present number.

Portraits of two or three others whose memoirs are given in the following pages, not being quite finished, will be prefixed to a *subsequent* part. Hereafter we shall complete all portraits in time to accompany the parts to which they will properly belong. When the volumes shall be ready for binding, instructions can be given to binders to insert every likeness at its proper place which is immediately preceding the memoir of its subject.

PORTRAITS IN PARTS II. & III., APRIL & MAY, 1852.

1. S. M. HARRINGTON, Justice Superior Court of Delaware.
2. WM. F. BULLOCK, Judge of the Circuit Court, 6th Circuit, Ky.
3. DANIEL A. WILSON, Judge Circuit Court, Virginia.
4. JOHN W. NASH, Judge Circuit Court, Virginia.
5. WILLIAM H. BATTLE, Judge Superior Court, North Carolina.
6. HENRY PIRTLE, of Louisville, Ky., Chancellor.
7. WM. B. McCLURE, President Judge 5th District, Pittsburg, Pennsylvania.
8. ISAAC W. HAYNE, Attorney-General of South Carolina.
9. PIERRE A. ROST, Justice Supreme Court of Louisiana.
10. EZEKIEL PICKENS, Judge Circuit Court, 2d Circuit, Alabama.
11. SAMUEL ANDERSON, Judge Circuit Court, Tennessee.
12. JOHN W. ELLIS, Judge Circuit Court, North Carolina.
13. A. J. MARCHBANKS, Judge Circuit Court, Tennessee.
14. W. R. SMITH, of Alabama, Member present Congress.
15. ARCHIBALD WILLIAMS, U. S. District Attorney for Illinois.
16. HIRAM WARNER, Judge Supreme Court, Georgia.
17. SAMUEL PRENTISS, U. S. District Judge, Vermont.
18. HORACE P. BIDDLE, Judge Circuit Court, Indiana.
19. ALEXR. McKINSTRY, Judge City Court of Mobile, Alabama.
20. GEORGE TAYLOR, Judge District Court, Pennsylvania.
21. J. H. LUMPKIN, Chief Justice Supreme Court, Georgia.

TERMS FOR THE TEN NUMBERS OF [illegible] THE PRESENT EDITION IS PUBLISHED [illegible] DESIRE IT SHOULD THEREFORE SEND THEIR SU[illegible]

BIOGRAPHCAL SKETCHES

OF

DISTINGUISHED

AMERICAN LAWYERS.

Biography is that branch of history that relates exclusively to man; and embraces, within its limits, all that appertains to his moral, intellectual, social or professional character: in other words, the discharge of his relative duties to this world and his higher obligations to the world to come. Thus considered, while it is true, that "History is philosophy teaching by example," the sentiment is more especially applicable to biography, which is one of the chief elements of history. The life and progress of man, his virtues and his vices, his accomplishments and defects, his successes and misfortunes, his triumphs and defeats, his motives and his actions, not only affect his own absolute position, but exercise a powerful influence upon the character and destiny of those by whom he may be surrounded or succeeded upon the busy stage of life. Hence it is, that the age or era in the world's annals, that exhibits *one* truly great man, invariably exhibits many—all shining at the same time in direct radiance and collateral light. Look to Greece in her orators, her patriots and her statesmen—Rome in her heroes, her poets and her historians—England during the reign of Elizabeth—France under the government of Napoleon. Example and competition form the character of nations—

> "When went there by an age since the great flood,
> But it was famed with more than with *one* man."

To commemorate the virtues, wisdom and patriotism of their heroes and their statesmen, their philosophers and their poets, has ever been the noblest office of the noblest nations. The voice of eulogy, the page of history, monuments, mausoleums, trophies and triumphs, were the proud testimonials to the splendor of their achievements, and the gratitude of their countrymen. Emulation blazed high in every bosom—worth became sympathetic and hereditary—*infancy* caught the sacred

flame of patriotism from the honored and hallowed ashes of its ancestry, and in beholding the bright escutcheons of war and victory, the tottering and enfeebled limbs of *hoary age* itself glowed and strengthened into the ardor and energy of second youth. Thus, all the diversified departments of their admirable systems of governments, civil as well as military, contributed to inspirit, to support and dignify each other; and while moving in their own respective orbits, like the inexhaustible luminaries of Heaven, they reciprocally borrowed and reflected light, and shed their combined lustre and glory upon an astonished world.

The influence of great example and the effects of rivalry are not confined to the nation or the time of their actual existence. They diffuse themselves over the world, and operate upon unborn millions. Strike out from history its earlier annals, and what becomes of its succeeding ages? It would be like striking out the acquirements and experience of youth, in its destructive consequences upon the hopes and happiness of mature age. It would be to expect the harvest without the seed-time, or the ripening summer.

But it is not only with reference to the virtues and wisdom of men that biography is important. Even the records of human vices and follies have also their salutary uses. They serve to guard us against those evils into which others may have fallen, and to secure to us those temporal and eternal blessings, which are too often wantonly disregarded, and perhaps irretrievably lost.

With these general views of the advantages of biography, we certainly require no apology for presenting to the notice of our fellow-citizens even imperfect sketches of distinguished public or professional men, who, by their eminence in some of the departments of life, have contributed at least to place their signet upon the times, and to illustrate the character of the country. With these inducements and this introduction, we beg leave to present to our readers,

A MEMOIR OF DAVID PAUL BROWN.

The subject of this memoir was born in the city of Philadelphia, 1795, on the 28th of September, and is now fifty-six years old. It matters little to whom related or by whom begot; it will, at all events, be sufficient to say, that his ancestors, who belonged to the Society of Friends, and who were rather remarkable for their piety than any worldly accomplishment, came from England with Lord Berkley, upon the first settlement of New-Jersey, and settled at Berkley, in Gloucester county.

The father of Mr. Brown, whose name was Paul, and who was born in 1767, removed to Philadelphia in the year 1790, and there shortly after married Rhoda Thackara, a native of Salem. David Paul Brown was the only son of this marriage; and his parents being blessed with an abundant fortune, and what is much more to the purpose, with a spirit of the most unbounded liberality, spared no expense in the education and mental and physical improvement of their child. It must not be understood, however, that like a hot-house plant, he was hurried in his growth to premature ripeness; upon the contrary, nature was left to her own gradual development, with her sluggishness sometimes sti-

mulated, and her exuberance sometimes checked, as the season or occasion might appear to require.

Until the age of eight years, the education of the child was exclusively the business of his fond parents, and more especially of his MOTHER. To her was mainly referred his intellectual and moral, and above all, his religious instruction; and he has often in more advanced age been heard to declare, that the lessons of his mother were more deeply impressed upon his mind, and exercised a more powerful influence upon his life and fortunes, than all the other instruction, imparted by the host of teachers, to whom his education was from time to time confided.

By her he was taught to read with the greatest precision—not in the whining slang of the schools—not coldly and artificially, but in conformity with the spirit and design of the authors, to whom his early attention was directed. With the mother and the son, instruction was a work of love—of maternal and filial love; and the advancement was in proportion to the holy influence by which it was stimulated. No rigid and unbending rules—no chastisement—no fears—all was voluntary; and, therefore, all was successful. Family hopes being centred upon the boy, and the cares of the world not encroaching upon the indulgence of parental attention, it will not be a matter of surprise to learn, that, when the lad passed into the hands of other teachers, though at an early age, and though he knew, of course, but little; what he *did* know, was *better* known, more perfect than usual, under the ordinary courses of instruction. He wrote well, for a child, read admirably, composed his doggerel rhyme, sketched and painted, talked accurately, and with a nice discrimination in language; and, above all, was taught, while at his mother's apron strings, to think and to reason, as a child to be sure, but still as a happy and ambitious child.

The time at last came when he was to be handed to sterner teachers. Still, however, his instruction may be said to have been domestic. Private teachers upon all branches were employed—an Italian for drawing in crayons and oil colors—English artists for landscape and flowers—a Frenchman for fencing, (more for the exercise than the art,) and for nautical and mathematical instruction, one of the first mathematical teachers in the country—the late Mr. Delamar.

To prevent, however, his being an entirely home-bred youth, his affectionate parents, under the impression that their son was some time to mingle in society, caused him also to be sent to some of the best schools, where there are those now living who can witness that he was always at the head of his class; and that too, with apparently but little effort or study. The evenness of his temperament, indeed, seemed always to give him full command of his faculties—and when they did not embrace a subject, he was never ashamed to acknowledge, instead of attempting to excuse it, and thereby afforded the best opportunity for improvement in that in which he was deficient. His memory, though not otherwise remarkable, was perfectly clear and distinct. He either remembered, or didn't remember—there was neither doubt nor hesitation about him; and although he stood first in his class and was willing to help others, he never relied upon his class, but upon himself. He was of course the pride of his father and the delight of his mother's

heart. Every possible indulgence was lavished upon him, every recreation, not only freely furnished, but suggested. He drew upon his father's exchequer at pleasure, and without limit: and the abundance of his purse would have shamed the matured magnificos of the day—and in after life he has often been heard to say, that he was never so rich and happy as in his early youth, for then, in the language of Socrates, he wanted least, and therefore approached nearest to the gods, who want nothing.

His father was at this time a merchant. There is one remarkable instance of his confidence in his son, which we may be excused for introducing. The lad upon one occasion, passing the auction store of of McKean & Co. or Pettit & Bayard, while a package sale was going on, stepped in, when a sample of fine Irish linen was exhibited. The boy was then but 12 years of age. Thinking it cheap, he bid for it and it was struck down to him. The crier, who was amazed to find that his bidder was an infant, rebuked him in the presence of the company, and said: "My lad, do you know that this is but the sample, and that your purchase amounts to thousands?" "It does not matter," said the boy giving his name, "I can pay for them all." When the sale was over, the gentlemanly and generous auctioneer called upon the father, and informed him of the occurrence. Without asking whether the bargain was a good or bad one, the kind parent at once said—I have full confidence in my son, and that is a matter between him and me. The bill was paid, and the purchase produced a profit of twenty-five per cent, which of course passed to the benefit of the bidder.

On another occasion about the same time, perhaps in youthful vanity, while at school, he was displaying a large sum in gold to his classmates, which the master perceiving took from him, and told him he should hand it to his father during the recess and inquire how he came by it. The boy, though somewhat indignant, said nothing. After the school was dismissed, the master accordingly called at the house, and upon ringing the bell, little Paul, as he was called, presented himself and invited him into the parlor where the father was sitting. The tutor, who was some judge of boys, immediately perceived from the alacrity of his pupil that he had misjudged him—and therefore, upon being introduced, merely said, "Your son had this large sum of money in school, and I took it from him as I thought he might lose it." The father expressed his thanks, and taking the purse, handed it over to the child, simply saying, "Boys should never exhibit their money but upon proper occasions—money is not for display, but for use."

In relating this anecdote, our subject has often said, that this was one of the proudest moments of his little life—as it at the same time rebuked the schoolmaster's unjust suspicions, and manifested the unbounded confidence of his father.

These, and similar instances of almost prodigal indulgence, though they may have done much good in the formation of our subject's character, still, were no doubt eventually attended with some evil.

"The pebble in the streamlet scant,
May turn the course of many a river;
The dew-drop on the baby plant,
May warp the giant oak forever."

With him, money seemed to have utterly lost its value—it was too common to be impressive—its receipt gave no pleasure—its expenditure no annoyance. Neither seemed to cost anything; and from that time to the present, though his professional income has exceeded perhaps a quarter of a million, the same indifference, the same carelessness, the same recklessness in regard to wealth, has characterized his career. On this subject we have heard a characteristic anecdote, which we cannot do better than relate, although the occurrence took place some fifteen years after Mr. Brown's admission to the bar. It was in this wise: The late William Rawle, with whom Mr. Brown was a favorite student, towards the close of life, made Mr. Brown a visit, and found him engaged in balancing his books. After some conversation, Brown turned to his venerable preceptor and said, "My dear Mr. Rawle, fifteen years ago I gave you my check for four hundred dollars, in return for your valuable legal instruction; since that time, I find I have received in my professional career upwards of one hundred thousand dollars." "I know," replied the preceptor, (himself a most liberal-minded man,) "you have been very busy, and it is necessary to be very busy for a young man to make such a sum in so short a time." "O, but," rejoined Brown, "you don't know how busy I have been, I have spent it all; there is not a dollar left. Yes, I have spent it upon *principle*. There are two kinds of extravagance. That which arises from a love of display, and that which springs from contempt of mere wealth. *Mine* is the last. If I could become rich, I should become indolent, and lose in fame what I gained in money. This is not the case perhaps with all, but it is with me." The old gentleman laughed heartily, and they passed to other subjects more agreeable to both.

But we have wandered from our task, and perhaps prattled out of season. To resume:

At the age of fifteen, in the year 1810, the subject of this memoir, lost, after a protracted illness, his devoted mother. She died, leaving him her blessing; and what was even better, the benefits of her instruction and the example of a life of Christian piety and practical virtue. This was a sad blow to domestic happiness and filial hope. Cut loose from his moorings in a mother's bosom, he, nevertheless, enjoyed the fostering care and tenderness of an affectionate father; but who at such an age can supply a mother's, and such a mother's loss!

The shock, for a long time, seemed to have paralyzed the boy. He became moody, confined himself to the house, resorted to no exercise, engaged in no amusements, moped over his books, day after day, and month after month, until at length he dwindled into a mere anatomy of himself. The father naturally became alarmed—the physician shook his head—all books were condemned—all studies prohibited; yet the prohibition only strengthened the appetite for the forbidden fruit. At last, in order to a change of scene, it was determined that the invalid should be sent to Massachusetts to the Rev. Dr. Daggett, a distinguished scholar, in order that he might advance himself in the knowledge of the classics. Apparently indifferent, he bade farewell to his surviving and sorrowing parent, and took up his abode with the Rev. clergyman, where he remained several years, enjoying all the time his

former ample pecuniary allowance. At the expiration of his term of studies, he returned with the highest honors to his father's home; feebler in body than at the time of his departure, but strengthened and enlarged in mind. Upon being received into his father's arms, that tender parent, unable to subdue his emotions, exclaimed, "my dear boy, you are reduced to a skeleton." "Yes, father," returned the boy, "but you will, I hope, find that in one sense I am much more substantial than when I left you"—of course referring to the improvement of his mind. Every thing was again made tributary to his comfort. He had his horses at command, but never rode; was visited by others, but rarely went into society; rose early; retired invariably before ten o'clock, and lived in the most frugal and abstemious manner in the midst of luxury. Having now reached his seventeenth year, it became necessary that he should make choice of a profession. He seemed rather inclined to the law, (being at that early age a ready declaimer,) but so indifferent was his choice, that he at once relinquished it in favor of medicine, at the mere suggestion of his father. He was accordingly introduced to Dr. Benjamin Rush as his pupil.

This was an unlucky choice of a profession. Nothing is more pernicious to a feeble and nervous frame than the study of disease. We are apt to imagine that we are afflicted with almost all the physical ills that "flesh is heir to." Hypochondria not unfrequently is the result; and in the preparatory effort to cure others, we often destroy ourselves. Like a confirmed dyspeptic, we most crave that very food that most contributes to perpetuate or strengthen our complaint.

In about six months the student was reduced to the condition of an almost hopeless patient; but how eventful is life! Just at this time, full of age and honor, Dr. Rush died, and as the attachment was rather to the physician than the science, an entire revolution in the career of our subject was at once produced. Prior to this, some doubts of the propriety of the selection glanced into the father's mind. Now these doubts worked an entire change. The pupil was at once withdrawn from the science of physiology and pathology, and his original inclination to the law having been somewhat strengthened, he was placed under the instruction and in the office of one of the most distinguished lawyers in the Union, the late William Rawle, a man, at that time, of princely fortune, and whose fame was co-extensive with the country.

It is unnecessary to carry our reader through a law student's studies. Let it suffice, that for the first year our student read for twelve hours a day. After that time, by the advice of his preceptor, he reduced the time to eight hours, and finally settled down upon six hours. He, in addition to this, regularly attended the courts for several hours in the day, during the last two years of his novitiate, and thereby became not only familiar with the usual form of business, but was better acquainted with the former and elder members of the bar than most members of the legal profession, who were many years his senior. Indeed, his intercourse was chiefly with the aged men of the profession—Lewis, Tilghman, Ingersoll, Binney and Sergeant, were then in their full vigor, and he enjoyed the benefits of their forensic example; and truly the country never witnessed a more glorious example.

In the latter part of the year 1815, a year before the termination of

his course of study, a second shaft from the insatiate archer deprived him of his father, and left him alone in the world, possessed, it is true, of a competent fortune, but cut loose, as it were, from all those kindred ties that make life most precious. But he that has suffered the greatest evil in life—can suffer no more; like *death*, it cures everything.

This last blow struck from him his last dependence, and from that moment, though he stood *alone*, he relied only upon himself and stood firmly. "My chief grief," said he, in after days, while on the full tide of success,—"My chief grief is, that those who watched over my spring and my summer with such untiring affection, should have never lived to behold the harvest of their own parental care. I should have been most happy just to show that their attentions were not entirely undeserved and unrequited. 'Man proposes and God disposes.' Ambition at length took the place of filial love; time cicatrized the wounds of the heart; but I shall never forget, that those for whose good opinion I was most solicitous—those to whom I was bound most deeply in gratitude and filial duty, received no other repayment than from the tears of affection and sorrow that were shed upon their graves. In short, my ambition was divested of its chief pride; and to this moment, in my proudest professional triumphs, my mind still recurs to the past, and cannot but acknowledge that its enjoyment is incomplete."

In the month of September, 1816, at the age of twenty-one years, Mr. Brown having read law for nearly four years, and undergone the usual examination, was admitted to practice in the District Court and Court of Common Pleas in the city of Philadelphia, and soon after, he was admitted to practice in the Supreme Court of the state, and in the District, Circuit and Supreme Courts of the United States. [We cannot do better, perhaps, by way of offering some notion of his difficulties, than to introduce here into our hasty sketch, a description of his first cause, from his own pen, entered in his diary, some years afterwards.]

"After toiling through the usual term allotted to students of the legal profession, on the day on which I completed my twenty-first year, I submitted myself to the necessary examination, and was admitted to practice as a member of the Philadelphia bar. No very distinct impression of the emotions then felt remains to me now, after a lapse of many years. Neither my prospects nor my hopes were the brightest, and, although a devotee to my profession, mine was a devotion not founded, of course, in experience; and, therefore, liable to be much impaired, if not utterly destroyed, by encountering difficulties not readily anticipated, or neglect, still more difficult to be endured. Yet from neither had I any claim to exemption, at least so I think, in more matured reason, in birth, in fortune, or in talents. For the most part unknown among the members of the bar, with a moderate patrimony derived from my father, and with the benefit of the best education which the times could afford, I still felt, in presenting myself before the public, that everything must depend upon two contingencies: first, whether the opportunity would be afforded for a favorable display of the limited abilities which I might possess; and secondly, whether I should be capable of employing that opportunity to advantage. Doubts like these must more or less influence every rational being, in entering

upon the prosecution of every science, and in none more than in the arduous duties of the law. My office was opened; but in despite of the allurements of a well-executed sign and a tolerable location for business, weeks and months, I had almost said years, rolled over my head without improving my pocket, brightening my prospects, or increasing my affection for the object of my choice. Indeed, I am not certain that my fervor was not a little chilled, and I am certain that without the slightest inclination actually to abandon my forensic career, I, nevertheless, occasionally looked like something like loathing to some half a dozen books which decorated a solitary shelf in my study. I found that the notion entertained prior to admission, that when my "calling and election" had been made sure, I should be disposed to enjoy in delightful composure the companionship of the sages of the law, was but a notion, and that it was totally unable to resist the superior interest and attraction with a youthful mind, which was furnished by a flood of poetry and romance, daily issuing from the press, and literally flooding the land. And why should it be considered remarkable? No man, in his senses, ever pretended that in itself alone the acquisition of any science could be matter of delight. It is in the vista which it is supposed to open to professional elevation—to worldly advancement—phantoms which too often vanish as we approach them—that its charms chiefly consist. My eyes were already closed upon these illusions, and the mind, in the effort to relieve itself from despair, turned to other subjects, if not more substantial, still more fascinating for the time. The end of the first year found me occupied with everything but the law. The tranquillity of my office had, I think, never in a single instance been disturbed or invaded by the foot of any obtrusive client, I was about to say, of any individual—for even courtesy shrinks from and shuns the unfortunate; when, on the first morning of the ensuing year, a fellow-student of mine, who was admitted about the same time, and who has since risen to considerable eminence, stalked into my office, as he said, to offer me his condolence: and who could have been more sincere in his sympathies? He also had not had a single client. 'Not a client?' said I, and I am afraid there was a lurking satisfaction in the inquiry. 'Not one, by all that's wonderful,' said he; 'that is, not a solitary fee, and yet I don't think I have any right to complain.' 'No right to complain,' I rejoined; 'that may be, but you have nevertheless a clear chance of starving—to starve and not complain—this is an ungrateful world,'—and I was going on to say something more, when he requested me to listen to him a moment, and I should perceive that his remarks were perfectly just. 'I have been,' said he, 'like yourself, a year at the bar: I have never received a farthing or been retained in a single suit. This morning, for the first time, my door opened to a visitor, an old lady, who called upon me, she being the widow of a Revolutionary hero, for the purpose of receiving instruction as to the measures necessary to be adopted in order to procure a pension or bounty from the United States. If she had asked me the readiest cut to the moon, I should not have been more confounded. I had no book at hand that contained the necessary information, and I should have been ashamed to turn to it, if I had. I faltered and floundered for some time, but the question was too direct to be evaded, and I waited upon

her to the door, while I honestly confessed, what she must previously have discovered, that I really did not know.' 'Now, sir,' said he, in a tone of mingled mirth and sadness, 'what right have I to complain? —the moment I shall be satisfied that I am a thorough-paced lawyer, ripe and ready for every ordinary inquiry, I shall feel myself authorized to pass my maledictions upon the blindness and stupidity of the world, by which my attainments are treated with unmerited contempt? But, not now—not now—Heaven forbid! The old lady has satisfied me that the fault is in myself.' Notwithstanding these were no laughing matters, my risibles were not a little provoked by this occurrence, and my despondency, such is our nature, somewhat alleviated by the equality of our conditions. We parted, both in a better humor than when we met—and I also came to the conclusion, that it was quite as possible that I was not right, as that the world was entirely wrong. Acting under the influence of this idea, I determined to appear again in the busy haunts of life, from which I had long been closely secluded—to betake myself to the Courts, where I was an entire stranger, and, in short, to find out from ocular proof how it was possible that 'the great globe' should move, without, apparently, the slightest consciousness of the loss which it sustained in my person and endowments.

"One day, shortly after arriving at this determination, passing through the avenue between the Courts, my attention was attracted by a crowd assembled on the steps, where an old woman—for women, it would seem, are ever connected with the greatest good and evil in life—with a sort of inspired frenzy, like that of Norna, of the Fitful Head, was haranguing the wondering, gaping multitude, upon the cruelty and barbarity of some one, whom she did not very clearly designate. This arose, perhaps, either from her having named the individual before my arrival on the margin of the assemblage, or from her resembling some orators, who think it is quite enough to speak, and, therefore, leave you to find their subject by your learning. Her manner—and in this also she was governed by high authority—was more effective and intelligible than her matter, and directed by that, I was induced to peer more closely into the crowd, in the very centre of which I at last discovered a sight much more sufficient to excite a female heart, or move a female tongue.

"In the very centre of this crowd, I say, stood, or rather bent, a little girl, whose suffering, it seems, formed the subject of the philippic to which I have already referred, and to whom the aged sybil ever and anon pathetically pointed. She appeared to be about eight or nine years old, wretchedly attired, the back part of her dress torn open, and her body exposed. Gracious Heaven, what a sight! Her little limbs were covered with welts and extravasated blood—her eyes were streaming with tears, and her youthful heart throbbed as though it would burst. Who could behold such suffering and be silent? I ventured to inquire to what this shocking spectacle in a civilized community was attributable—an unlucky question. Attention was directed immediately to me, and whether there was anything professional in the mode of inquiry, or whether some individual in the large assemblage knew that I was somehow connected with the law, I know not,

but it was at once insisted that I should obtain or point out the road to redress. Although it would be base to say that my feelings were not deeply enlisted, the idea of being suddenly thrust into an argument was very much like looking a lion in the mouth; and I really think I would rather have taken a beating equal to that of the little sufferer than have been called upon to utter those frightful, those appalling words, 'May it please your Honor.' What could be done? There is something in the helplessness of childhood that appeals most strongly to the heart. I was not a parent, it is true, but nature ever prepares us for those affections which, when they arrive, are the most despotic and resistless in their sway. The age—the sex—the tears—the blood of the sufferer, might have moved a savage—but, added to all these, the accounts of her inability to communicate by language the extent of her calamity, rendered it doubly impressive and affecting—what, I say, could be done? Who could resist such an appeal? Even if the nobler emotions of the heart could have listened unmoved to her untutored grief, the sense of shame which every man must experience in refusing his aid when thus strongly and publicly appealed to, could not be overcome. I took the little stranger by the hand, ushered her into the office of the chief magistrate of the city, and there endeavored —for it was my first appearance as well as her's before the awful face of justice—there endeavored so to collect my scattered thoughts as to present something like a connected detail of the injuries she had endured at the hand of her master. It seems that the child, a matter of which my readers have not been apprised, was one of a large family of German Redemptioners, as they are usually called, recently arrived amongst us. She, together, with her entire family, had been sold to different individuals throughout the state, for a certain number of years, for the purpose of discharging the amount of their passage money. Her father and mother, as I succeeded in gathering, were purchased by some gentleman in the interior of the state. Her brothers and sisters had also been purchased by individuals far removed from the city, and she, the youngest of her little flock, cut off and estranged from her native support, fell into the hands of the individual whose causeless barbarity was the subject of complaint. . . . . My fears, however, had no effect other than to lend their own wings to the flight of time, and the morning of the eventful day arrived—the day that was to decide upon my destiny forever.

"How deceitful is this world! To visit our temples of justice, and to listen to the aspirants for fame, what is more delightful, what is more fascinating? What a sad reverse, however, does reflection present, while she traces them step by step through the thorny and perplexing mazes of an intricate science—bartering their tranquil slumbers for the illusions of fame, wasting their lives frequently in unavailing efforts to enjoy or to grasp what hope had so long promised, until at last the lights of life and hope are extinguished together. How dearly purchased, and, alas! how vain are the charms of ambition!

'A meteor that delights, deludes, destroys,
A lamp sepulchral, in a charnel-house,
Gilding with flickering ray the shades of death.'

What a miracle is the mind of man!—shrinking even from the thought of past terrors. At this day, when the records of time are impressed upon my brow, and I feel his icy fingers at my heart, I can hardly bring myself, without too much emotion, to review the scene of my earliest professional struggle. Haggard and worn out—not with preparing for my cause, but with thinking of it—on the appointed day, not induced by ambition but propelled by dread of shame, and yet hardly certain whether the greater shame pursued or confronted me, I entered, for the first time professionally, the chambers of justice—the chambers of death would not have been less gloomy, scarcely less welcome. The hall was crowded to the very ceiling, either actually or by my peopled imagination. Yet I saw nothing distinctly; there was a general buzz—not of applause—but as it seemed to me of consternation, at seeing the approach of counsel and client; the former, if possible, evidently more terrified than the latter. I sat down beside the complainant scarcely knowing how, got up without knowing why, and, in the very endeavor to appear composed, must have satisfied every practical observer that composure was no inmate of my distracted mind. When sufficiently collected to embody the shadowy forms around me, I perceived, seated immediately opposite to me, the defendant and his counsel—'upon whose brows deliberation sat'—two experienced and distinguished members of the profession, men who had been accustomed to sway the sceptre of the mind with kingly hand, not only composed but eager for the encounter. When I saw this, strange as it may seem, I confess I felt relieved—there was something, it seemed to me, like a contemptuous smile, playing around the lips of the gentlemen, and I felt for a moment as though my soul was in arms: it was but for a moment—the feverish excitement subsided, and left me, if possible, more languid and depressed than before. The case was called—the jury sworn—when, as if I were doomed to be tested by every affliction, the Attorney-General—a gentleman of distinction in the profession, though but little older than myself, privately stated to me that it was not his design to assist me in the prosecution—but that having opened the cause, it would be left entirely to my management. Ambition—pride—shame, had alternately ruled in my bosom; their voice, though heard for the time, was soon lost in the tumultuous clamor of fear that pervaded their kingdom. This, however, was the last blow, and the result was despair—deep, unalloyed, unmitigated, unresisted. From that moment my whole character was changed, and 'every petty artery in the body swelled with a giant's strength.'

"I had often heard of the stillness and calmness of despair, but never felt it before or since. How salutary a lesson did I derive from the sufferings of that occasion! How intense is the commiseration I feel upon the professional debut of my young friends! and although it rarely happens to them to make their first appearance, or launch their little bark upon so stormy a sea as that by which mine was tossed—nevertheless, to a sensitive mind, the first public essay, whatever may be its character, and whatever its occasion, is attended by the most horrible anxieties—and, perhaps, it is necessary that it should be so. He who commences his career with composure, will prosecute it with indifference and terminate it in disgust.

"I acquit the gentlemen opposed to me of any design to increase my difficulties. Scarcely, however, had the case been opened, when it was suggested that the defendant had the right to insist upon the indorsement of the name of a prosecutor; and some authorities were referred to in support of this privilege. Those who were friends before seemed to shrink from responsibility. I had no authorities to oppose them; my scanty supply of legal lore hardly furnished me with a definition of the offence about to be tried, much less with that practical knowledge, without which the acquisition of legal principles becomes rather an incumbrance than an assistance. I simply suggested to the court, that the application appeared to me to be too late, after the jury had been sworn; that the jury might themselves afford to the defendant all the advantages to which he was entitled, by finding the prosecutor in the verdict; but that if neither of these grounds were considered by the court, I begged, in behalf of a friendless child, to be allowed the honor of recording my own name as the prosecutor, and thereby, at once, removing all preliminary questions upon our right to proceed. This was partly sincere, no doubt, but I dare say it was chiefly attributable to my having at the time more ready money than ready reason. The court, fortunately for us, adopted the ground first suggested, refused to direct the name of a prosecutor to be indorsed, and the cause was accordingly ordered to proceed. The counsel for the defendant then publicly called upon the Attorney-General to adopt or reject the case, as a public prosecution. With a magnanimity, for which he deserved credit, and received it, he stated that, although disposed to leave the matter entirely to me, he did not think his official duty would justify him in throwing reproach upon a case, founded, apparently, in a desire of public justice, by declaring it unworthy of public support; and that if it were insisted upon that he should either repudiate it or assist in the prosecution, he would elect the latter, which he accordingly did, very much to my gratification and the benefit of my client, and unquestionably to his own honor.

"The cause then proceeded. The facts already cursorily adverted to were distinctly proved. The defendant chiefly relied for his acquittal upon his general character, which was irreproachable—upon alleged misconduct of the child, and particularly that she had, upon one occasion, been found in possession of a small sum of money, which she said had been given to her by the defendant's brother, and which the brother denied. The cause lasted near four days, the excitement daily increasing, until, at length, the period arrived when it became my duty to address the court and jury.

"Terrified and trembling, I arose. The temporary agitation of the multitude, and then the dead silence that succeeded—the imaginary importance of a first effort—its probable effect upon my future life—but, above all, the desire to vindicate the principles of humanity which had been outraged, all contributed, by their claims upon my exertion, to impair those feeble talents which might have been effectually exercised, if less powerfully put into requisition.

"As though seeking consolation from every quarter, and anxious to conciliate the opinion of my opponents the moment before commencing my speech, I turned to one of my antagonists and said, 'This is awful—

it is very much like facing a full-mouthed battery,' in the expectation that he would cheer me by the reply, that my fears were imaginary—a few words and I should be relieved from anxiety, or something to that amount. But on the contrary, my anxiety was redoubled by his remark, that it was truly a great day for me, as I should probably date my rise or ruin from it. All further communication was here luckily cut short by a direction from the court to commence the discussion, and I began. For some minutes I remembered nothing, with the exception of one circumstance, which showed that I was not entirely deprived of consciousness. Having, while speaking, thrown out my hand, I was shocked to perceive that it trembled like an aspen leaf, and immediately withdrew it until the acquisition of greater courage should render it more confident in the cause. When I once got fairly started, the reaction of nature upon the system was most powerful. The excitement into which I was wrought presented, too, most boldly to my mind, all that I ever read or knew. The audience, borne away by the occasion, and only requiring that the prominent features of it should be discreetly exhibited to them, broke in upon my speech with loud and long continued applause; and after haranguing the public rather than the jury for about three hours, I sat down amidst the most tumultuous acclamations that ever disturbed the serenity or shocked the dignity of a court of justice. The whole effect of my speech was dramatic. The introduction of the child whom I apostrophized in the course of my tirade, was electrical; the entire assemblage melted into tears; in short, rage, indignation, sorrow and consideration, ruled the tumultuous throng by turns. My antagonists followed. They managed their cause with infinite address and ability; but in such a case, and with such an audience, it was not in the power of man to succeed. The case was closed by the Attorney-General with great force and pathos, and the defendant was convicted.

"This may be truly said to be a strange world—there is nothing in romance equal to the realities of life. My office, which, as I have said, before that time was deserted, now, by this sudden and unexpected chance, became thronged with clients, anxious to unload their griefs and their pockets. My seclusion and tranquillity were forever exchanged for public display, and everchanging scenes of noise and strife. With all the delight attending upon flattering hopes, is there not room to reflect here, whether the change, favorable as it appeared, really contributed to increase the actual balance of human happiness? My means, it is true, were extended, but my expenses were necessarily much increased. My pleasures were of a more positive character, but so were my pains. Daily I inhaled the buoyant gale of popular favor, but I was also daily subjected to perils and penalties which nothing but untiring ambition could endure. At this time I am even surprised, that I could ever have rejoiced at a change which condemned me to unremitting and interminable toil; and with the characteristic capriciousness of man, I look with anxious and desiring eyes upon the retirement and solitude which I once enjoyed, and which at that time was as much abhorred as it is coveted at this."

In 1819, Mr. Brown, then about twenty-three years of age, was honored by the Washington Benev olent Society with the appointment

of Orator, to deliver the annual discourse upon the birth-day of the Father of his Country. This duty was performed at the Hall, with an audience of more than five thousand persons; and without the aid of any manuscript. When it is remembered that this high post had previously been conferred only upon such men as Judge Hopkinson, Mr. Ingersoll and Mr. Chauncey, veterans at the bar, the distinction will not be deemed inconsiderable or unworthy of notice. From year to year, popular favor seemed to accumulate upon the subject of this memoir. And shortly after, he was engaged in some of the most exciting of the Roman Catholic disputes, (arising out of dissensions between the body of the clergy, and the late Mr. Hogan,) which difficulties agitated the city for several years, and employed some of the first talents in the country. In 1824, Mr. Brown was engaged by the honorable Robert Porter, President Judge of the Common Pleas, in his defence upon an impeachment before the Senate of Pennsylvania. Upon the trial, Mr. Brown was the only counsel for the respondent; and in defiance of a powerful opposition by the Attorney-General and the Committee of the Lower House, succeeded, after a laborious trial of several weeks, in a most honorable acquittal of his client. The difficulties encountered by him upon this occasion, considering his age, were such as are rarely undergone; and no young lawyer can fail to sympathize with him, while perusing the following anecdote, which we have often heard related by himself, and almost in the very words:

"On the fourteenth day of the trial, the evidence being closed, the Attorney-General summed up his case, and finished about the usual hour of the evening adjournment. I was to follow the next morning for the defendant. I, of course, returned to my lodging, brim-full of anxiety, and, as is my wont, expecting a night of laborious examination and study. It has been my habit, always to reserve my main preparation until after the evidence has terminated—but, in the present instance, that delay was rendered *inevitable* from the pressure of the trial, and the protracted sessions of the Senate. After taking my dish of tea, I locked my chamber door, drew the strings of my satchel, and pulled out, as I thought, the recorded labors of the last fortnight. But to my astonishment, the bag only contained the Journal of both Houses—not a particle of my notes, the charges, or the evidence. I confess, this appalled me—it was now near ten o'clock at night, and, 'with all appliances and means to boot,' I had no time to spare. I immediately rushed up to the Senate Chamber, opened my desk in search of my notes, but it was empty. I next hastened to Judge Porter's lodging, but he knew nothing of the stray papers. Finally, I turned my disconsolate steps again towards my own apartments, and I confess, I think I should have been happy if any one had blown my brains out on the road. The reflection, or rather the visions that passed through my mind, were of the most painful and distressing character. I felt as if all my past life was to pass for nothing; as if this was the crisis of my fate. To appear before the Representatives of the entire state—heralded by proud anticipations, and to break down in the very centre of a vast community, 'where either I must live or have no life,' was certainly enough. But there were matters beyond these. The respondent, a man of high character and fortune, and with an interesting, large and

sympathetic family, was to be utterly ruined in his fame and prospects, by confiding his defence to a thoughtless and improvident young man, who had not only neglected the reasonable preparation of the case, but had actually lost the documents, and the evidence, so vital to the defence. As to asking the Senate to extend any indulgence in the way of a postponement of the argument, that was out of the question. What then was to be done? The die seemed to be cast, and my very apprehensions served only to redouble the difficulties, to which I was actually subjected. There is a courage however in despair, that nothing else can match. I felt like the leader of a forlorn hope, who, in the extremity of danger, loses even the sense of fear. I remember it as if it were yesterday. I entered my wretched study, which I had prepared for a night of toil, blew out the lights, and, attired as I was, sprang into my hapless bed, to pass a feverish, a sleepless, and a restless night. It was the only night's rest I ever lost; yet, in its influence upon my professional character, it was the best night of my life. With closed eyes, and a perfect concentration of all the faculties of my mind, I reviewed in their order all the occurrences of the trial, so far as they were essential to the defence; an immense effort of memory, the greater for having at all relied upon notes in the progress of the cause. The charges were fourteen in number; I began of course with *those*. I then turned my mind to the answers, to the specifications, by which I arrived at the exact points in issue, either in fact or in law. I next passed to the names of the different witnesses, amounting to 115, examined on the part of the state, or the defendant; I then recalled the respective testimony upon the different accusations: the discrepancies, contradictions, the motives, the means of knowledge, and the respective weight of the witnesses, in regard to the points in controversy. This was followed by a discussion of the legal principles, applicable to the consideration of the relative condition of the prosecution and defence. And lastly, I reviewed the public services of the respondent from the time he was an officer in the Revolution, at the age of eighteen years, down to the moment of the present trial. I had barely reached thus far, when the bell of the Capitol sounded, and I was summoned, half dead, to my argument. At all events, I didn't require to *dress*, and I was quite *ready* if not entirely *prepared*. As I walked up the centre aisle or avenue to commence my argument, my client, who, with all his merits, was the most absent man in the world, hastily approached, and said—'My dear friend, I have found your papers, having locked them all up safely in my desk.' I had merely time to say, with some impatience I fear, 'It is of no consequence now;' and the argument, which occupied the entire morning, at once proceeded, and on the same day, eventuated, as has been said, in the honorable acquittal of the defendant.

"I refer to this, not simply for the story but for its moral; for the encouragement which it is calculated to impart to the youthful advocate in similar circumstances. Depend upon it, what must be done, can be done. 'The Gods are ever with the brave.' To be resolved, is every thing.

"All the composure that I have ever since enjoyed in the most anxious struggles, has been readily traced to the early events which I have thus described. No circumstances could be more unfavorable; and

therefore, having encountered the *greater* evil, I am not to be taken by surprise, but feel always ready to combat with the *less*. A rough youth makes a calm old age. Adversity is a severe teacher, but its lessons are rarely forgotten."

During the trial of this very important case, Mr. Brown became engaged to Emmeline Catharine Handy, the accomplished and only daughter of Dr. Sewel Handy, late of the United States Navy, and grand-daughter of James Hutchings, Esq., of the Eastern Shore of Maryland. This marriage took place at Philadelphia, on Christmas eve, in the year 1826, and has been blessed with the birth of five sons and two daughters, all of whom are still living.

The new relation into which he had entered was, of course, an additional incentive to professional exertion. Still, although business increased, his labors were rendered comparatively light from having become habitually familiar. In his own language, "he could now sleep upon his laurels," or make speeches with impunity, which would have ruined him if he had been ten years younger. Such was his just estimate of the patronage and judgment of the world.

The trial lists of the courts will show, that for years his business took a conspicuous part, in the number of cases brought in the civil courts; and when it is remembered that his engagements were of the most varied character—that he was a leader, too, in the heavier business of criminal proceedings, and was not unfrequently employed in four other states of the Union; it may well be believed that the duties of his profession afforded him but little time or relaxation. When upon one occasion a friend kindly inquired, "How is it possible that you can do so much business?" he simply answered, "Because I have got so much to do." "But," rejoined the other, "how can you indulge in poetry and general literature?" "Because," replied he, "it enables me to return to my more rugged pursuits with greater alacrity and renewed strength. The mind takes its direction from habit; if you wish to strengthen it, you must direct it, for a time, into other channels, and thereby refresh and improve it. A mere lawyer is a mere jackass, and has never the power to unload himself; whereas I consider the advocate—the thoroughly-accomplished advocate—the highest style of man. He is always ready to *learn*, and always able to *teach*. Hortensius was a lawyer—Cicero an orator; the one is forgotten, the other immortalized."

Shortly after his marriage, Mr. Brown was engaged with Mr. Binney and the elder Mr. Rawle, (his preceptor,) in the Circuit Court of the United States, in a highly important case, of Snyder v. Zelin, involving the chief part of the estate of the late Governor Snyder. It was an ejectment to recover Zelin's Grove—Mr. Bellas, Mr. Kittera, and Mr. Chauncey, were the counsel of the defendant. This case is introduced partly to show the promptitude of Mr. Brown in an emergency, and partly to exhibit the perils of printing.

As the junior counsel, Mr. B. of course opened the case for the plaintiff. When he commenced, the witnesses, to prove the facts of the defendant's possession, were all in court; but when the opening was finished, and the witnesses were called, they had all in some mysterious manner disappeared. The matter was stated to the court,

but after waiting a few minutes, Judge Washington ordered the case to proceed. "Well, then," said Mr. B., "I will call Mr. Bellas, one of the defendant's counsel, who resides near Zelin's Grove." "I decline being examined," said Mr Bellas; "being counsel, I cannot be asked to betray the confidence reposed in me." "But," said the judge, "you are compelled, notwithstanding, to state your knowledge of a fact which is supposed to have been known to you, independently of your employment." He was therefore examined, and the object accomplished. The peril of *printing* was this. During the trial first mentioned, which was a protracted one, Mr. James Madison Porter, (afterwards Secretary of War, who was a brother of Judge Porter,) had procured the proceedings and arguments upon the impeachment to be published, and he forwarded the proof-sheet to Mr. B., while immersed in the difficulties of the trial, in the Circuit Court. Mr. B. had merely time hastily to glance over his speech, strike out the objectionable parts of it, by passing his pen through them, and return the proof forth with. But upon the publication of the book, what was his surprise to find that the stupid printer, instead of omitting the objectionable passages, probably supposing they were intended to be underscored, had printed them all in *italics*, thereby inviting attention especially to the most offensive parts of the argument. If the speech was ruined, the joke at least remained; and we have often heard the victim say, that he would not give much for any man's literary or professional reputation that a printer's blunder could demolish. Shortly after this he reviewed, for Mr. Walsh, Joanna Baillie's Poetical and Dramatic Productions; Colonel Hamilton's work upon the Men and Manners of America; and Lord Brougham's Speech upon the Reform of the British Laws. In the year 1830, he wrote Sertorius, or the Roman Patriot, tragedy; and the Prophet of St. Paul's, a melo-drama, which were followed by the Trial, another tragedy; the first two of which were performed and published, and, if we remember rightly, reviewed by Mr. Paulding, Secretary of the Navy, in Walsh's American Quarterly Review.

Well may we admire, says an author of considerable distinction, speaking in regard to these literary labors, that a lawyer, overwhelmed with an infinite variety of business, whose ante-room resembles that of Charles the Bold, should recreate his harrassed and exhausted faculties, even amidst the passion, invective, and noise of litigation, with the beautiful dreams of poetry. He well knew that the purest and loftiest intellect is least esteemed among us; else why are the authors of Prometheus and Hadad thrown backward into darkness, while the tamest mediocrity often triumphs over the genius which scorns all subterfuge and notoriety! But Mr. Brown recks not of these things. Amidst the severe toils and agitations of his profession, he summons around him the lovely Castalides—breathes, in the thick atmosphere of a court, the pure air of Parnassus; and retires with a serene spirit from the fury of forensic contention to celebrate his Competalia, among the shadowy and beautiful beings of the mind. We delight to behold such a mind; it soars beyond the indurating influences, the skepticism, the worldliness, which the law too often engenders, and clothes even the bitter animosities of men with the light of a humanizing and exalted spirit. Mr. Brown most amply merits the reputa-

tion he enjoys in jurisprudence, and if his fame is not surpassed by his literary renown, it will be solely because letters are to him, not a profession, but an enjoyment; not an aspiration after immortality, but a recreation and solace in his hours of abstraction, from the more severe conflicts of the mind.

In a work upon the Dramatic Authors of America, by James Reese, Esq., published in 1845, there is also a notice of some of these plays, together with a professional anecdote, that may not be unworthy of insertion in this hasty and imperfect sketch. It is written by a comparative stranger, and is, perhaps, the more valuable or impartial on that account. At all events, it will form one of the links in the chronological chain of Mr. Brown's career.

David Paul Brown. Sertorius; Prophet of St. Paul's.—The first of these was printed in 1830, and acted by Mr. Booth, in his palmy days, with great success. It possesses considerable merit, and has nobly withstood the test of severe criticism. The latter has been played thrice, but not with the same success. The Prophet of St. Paul's, like the dramatic productions of Byron, is better calculated for the closet than the stage; it is obviously not intended for representation. A critic of the period alluded to, speaks of the author thus:

"Mr. Brown's poetry is generally smooth and harmonious. Besides a familiar acquaintance with the best models, he has a delicate ear, nicely alive to discord; and he reads with a correctness which would be likely, if applied as a test, to prevent all harshness of rhythmical construction. In Sertorius, it would be difficult to find a single jarring line. Mr. Brown is one of our most popular lawyers. He possesses, in an eminent degree, those qualities which acquire and secure favor. His manners are frank and courteous, his conversation is sparkling and vivacious, and his temper is amiable and benevolent. As an advocate he has few superiors. He enters thoroughly into his case—identifies himself with his client—and his warmth and energy always secure attention, and awaken interest, even when they fail to produce conviction. His declamation is bold and impassioned; his diction uncommonly free and felicitous, and he possesses a readiness, self-command and tact, which never forsake him. It is not surprising, then, that his clients should be numerous, and his business extensive; and hence it has happened, to use the language employed in his simple, but sincere dedication, that this 'dramatic sketch' was hastily 'drawn in the scanty intervals afforded by an arduous profession.'

"A general criticism upon the literary merits of any native production would be foreign from our purpose. In accordance, however, with the plan laid down, we give extracts whenever the opportunity offers, with such remarks as have appeared on or about the time of the representation of the pieces. We wrote to David Paul Brown, Esq., for copies of his plays, that we might make such extracts as would tend to give our readers some idea of their literary merit. We cannot resist the temptation of publishing the following letter from this admirable dramatic writer; it is written in his usual style of excellence, and when we add, that we have no personal acquaintance with him, his open, candid and familiar style will convey to our readers a much better idea of Mr. Brown's character, than would whole pages of

fulsome flattery, from some crawling sycophant, who, 'to win and wear favor,' would write anything at the expense of truth:

"*Philadelphia.*

"DEAR SIR—I received your kind letter, dated the first of this month, and hasten to reply. I am, perhaps, unlike most dramatic writers of the present or any other day—for although neither of my dramas has met with much success, I think *both* have met with much more than they were entitled to. This impression of mine may be ascribable to my utter indifference to their fate. They were written rather as matters of relief from the cares and toils of an arduous profession, than with any view to their representation upon the stage. And if I may speak frankly, I must say they derived greater celebrity from their author, than their author will ever derive from them. In other words, it was not so remarkable that with vast professional engagements I should have written *two bad plays*, as that I should have been able to write *any* at all. Sertorius has been performed nine times, and with the aid of Mr. Booth, was well received. The Prophet of St. Paul's has been thrice performed, and by the aid of good luck has not yet been *damned;* but for my own part, I should be unwilling to run so narrow a chance. In the worst possible result, however, I should have been totally unaffected, as I confess to you; although I have much pleasure in the composition of such matters, I have no interest in their fate. I am an advocate, not a dramatist.

"I have attended to your request, and deposited with Messrs. Carey & Hart a copy of Sertorius and the Prophet, which I hope you will shortly receive.

"Very respectfully yours,

"DAVID PAUL BROWN."

ANECDOTE OF DAVID PAUL BROWN.

"Some fifteen years ago, when the duties of a juror required my regular attendance at the courts, the peculiar manner and style of this gentleman's pleading struck me as being highly dramatic—not an affected, theatrical manner, but one the result of much study of human nature, the effect of which was startling and almost overpowering, particularly to the poor devil about undergoing the ordeal of cross-examination. One case, while I was an empanneled juror, left an impression on my mind that time can never erase. The witness was a respectable looking man, with a calm, settled countenance, as placid as are the deep waters when the storms have passed in their fury away. There was not, in any one of his strongly marked features, the least indication or index to a volume of crimes, which lay hid in his breast. I had noticed this man particularly, and in a former case had received as gospel his evidence. But the whole feature and character of the man were now changed. Mr. Brown, the attorney in the case before the court, objected to his evidence: it should not, he observed, be received. The reasons were demanded by the court—they were promptly given: the man was a convict, unpardoned, and thus placed beyond the pale of the

law by his crimes, and not to be admitted at the bar otherwise than as a criminal. Much excitement ensued; the witness looked surprised; he rebutted the charge with indignation, spoke of character, law and justice—his eyes flashed as he boldly stated to the court that he never was in prison, had never been subject to the lash of the law in any shape. Injured innocence, insulted pride, wounded honor, all seemed to rise up in vengeance against the bold accuser. Mr. Brown arose from his chair, where he had seated himself at the commencement of the witness's declaration of innocence, and walked up to him. There was determination in his look; his soul-searching eye was fixed like that of a basilisk on the witness. The effect was almost the same, for his victim's gaze was also as fixed; the one, however, was that of power—the other, that of fear. Mr. Brown spoke: 'I have objected to your evidence, sir; this objection is founded upon a knowledge of your character. Answer me, sir—Were you not convicted and punished in the State of Delaware for a heinous crime?' 'No sir.' This was uttered with an evidently assumed boldness. 'Never?' 'No sir.' 'If I were to strip up the sleeves of your coat, and point to the letter R branded on your right arm, near the shoulder, and say this was done in Newcastle, Delaware, what answer would you make?' The poor wretch was crushed—his artificial courage melted away before the fire of an intellectual eye. It is scarcely necessary to add, Brown gained his cause. From that moment I admired him; and when his tragedy of Sertorius made its appearance, I read it with additional interest, from the fact of associating a highly intellectual scene in real life with the many which so frequently occur in dramatic existence."

In addition to the preceding notice, we cannot, perhaps, do better, than present to our readers the following notice by a distinguished member of the bar, now in practice, referring to a similar subject, some few years afterwards.

Extract from the private journal of a member of the Bar, dated September 15th, 1836.

"A word of Mr. Brown, whose accidental presence in the box with me this evening, and devotion to Shakspeare, suggests a remark or two in this connection. Some persons, as was once said of him, have the good fortune to be called by all their names at once; it is so with this gentleman. It is never Mr. David Brown, or Mr. Paul Brown, or Mr. David P. Brown, or Mr. D. Paul Brown, according to a modern fancy; but David Paul Brown, all three at the same time—an entire triumvirate—like certain illustrious names of antiquity, or John Quincy Adams, to come down to our own day. But with or without all three of his names, he is a remarkable man. He stands in many things at the head of the profession, in my humble judgment, if eloquence be a test of professional strength or distinction—for eloquence he undoubtedly has, and of a high order. That God-like gift, which likens man to angels in its sublimest flights, is his, to an extent unsurpassed by any one here in daily practice whom I have yet heard. There may be others equally eloquent, others who have ceased to mingle in daily contests—I am told there are such, whose style of speaking is as classic as powerful, but I have not heard them. Of those whom I have lis-

tened to, I should say, that the gift of oratory, in some of its highest departments, is assuredly Mr. David Paul Brown's, by title indefeasible and beyond dispute. I have known him carry a whole court-room by storm. This may give an idea of his style—it is a storming of entrenchments with him from beginning to end, a charge of bayonets, downright cut-and-thrust work—the battle-axe and battering-ram, from the moment he rises till he takes his seat. We hear of the sword and the pen; with him it is the sword and the tongue; his manner of speaking resembling often the power of the sword, for he slashes about him, right and left, cutting down everything—sparing nothing—galloping headlong over dead and dying, till he accomplishes the one great object of beating and prostrating the enemy's lines, bearing down his defences, and planting his victorious standard upon the ruins. It may be inferred that he is equally powerful to resist; evading, with equal dexterity, the blow himself would aim. With all this, he has the high merit of self-possession, which he retains at all times, in the midst even of a torrent in which other men would be lost. He speaks a good deal like McDuffie, of South Carolina, using the same fire and force, and would be a Hercules in the field of stump oratory; and yet I would not convey the idea, that his style is exclusively of the boisterous headlong order—on the contrary, the steel is often as polished as the arrow is barbed—and it appears to be his aim, and he succeeds in it too, to be distinguished, not less for the graces, than the power of oratory. He has a fine command of language; and then, you can always hear what he says—for he speaks with remarkable distinctness, even in his most animated moments, and gives a clear open sound to every word that he utters. As to 'action, action, action,' his is the action of the mind and the soul—the head and the heart—the hands and the feet, at one and the same moment of time; and if his movements *are*, sometimes, a little too sudden, and if he *does*, sometimes, walk about a little too much—let those who would criticise, emulate his success, and try to do better. He has the art of carrying you along with him from the beginning to the end of the chapter, retaining his hold all the time. Hence, he never fatigues; and this is one secret of his success. I must not omit to speak of his uniform courtesy to his opponents, and constant equanimity of temper, virtues in which younger men, and some who are not younger, would do well to imitate him. He has certainly the art of making the most of his case, and the worst of his adversary's. He is playful as well as sarcastic, but I never heard him indulge in low or coarse jokes. On questions of evidence he has great power, and when taken suddenly in the midst of a cause on exceptions started, I have known him argue them with extraordinary ability and force. I heard a distinguished lawyer, himself an accomplished speaker, who is still occasionally to be seen in court, commend him highly on this head. In the examination of witnesses, his skill and power have elicited praise from tongues and pens, abler than mine, and I pass by that great field of his success.

"I am not unaware of objections to his style—it may be that he is sometimes over zealous, and that a little more variety would enhance the effect of his speeches. The first is, at least, that which leans to the side of excellence in oratory, and belongs to genius, and in his case, is con-

nected with, and arises from a quality the noblest of any that an advocate can possess, and which this gentleman eminently possesses, the 'sacred duty' which Brougham so eloquently described and enforced, and which needs only to be named, to meet a ready response in the heart of every member of the profession who rightly appreciates his high calling—the sacred duty he owes his CLIENT. In this respect, Mr. Brown is entitled to the highest praise, for he goes for his client through and through—his client first, his client last, his client always.

"A word of his industry; and if this rambling sketch has already extended itself to greater length than I had at first contemplated, it is at least a reason that I should not leave it incomplete. With every just admiration for the qualities of learning and high professional attainments, united with personal accomplishments, which I have witnessed at this bar, I have been disappointed in the style of speaking. Hence, I have dwelt the rather upon one who seems to have made the eloquence of the bar his ambition. But his industry is equally the subject of praise. His practice is very large—involving, of course, daily and hourly occupation at the bar, and with his clients early and late, yet he gets through it all without even appearing to be discomposed, or even seeming to be in a hurry. His success speaks for itself. You meet him everywhere, almost at the same moment, making speeches, I had almost said, every day in every court; yet he is perpetually at work at something else; writing addresses for the 'Artists' Fund Society'—delivering orations before the 'Phi Beta Kappa Society,' or lectures upon Hamlet—or writing plays or essays upon all subjects, besides being prominent at many a convivial party. The only way for accounting for it all is by great and unceasing industry, and I am told that his is very great. And after all, how can men hope to succeed in anything without it? 'The mind of man is a mind of labor.' So said a distinguished gentleman in my hearing not long ago—distinguished for high professional reputation not less than social eminence. One of the commentators on the Old Testament remarks on the first chapter of Genesis, that 'to man, moreover, it is enjoined to *subdue* the earth; to subject it to his own and his posterity's dominion by due *labor* and *industry*, so that it is plain, man, even in his perfect state, was designed for industry and toil.' Let us profit by the precept."

The habits of Mr. B. are most abstemious, and he has often been heard to say that he never dined when he expected to speak in the afternoon upon any case of importance, as the dinner would cost him more mental effort than it was worth, and contribute to lose the cause besides. In no circumstance, however, does he ever omit his *breakfast*—it is his great meal, and sometimes the only one for the entire day. Few men of the age of *forty* have his activity and elasticity of body; and since his boyhood he has never been known to be sick, except upon one occasion. Before he was twenty-five years of age, water was his only drink, and he rarely retired to bed after ten o'clock. To this he imputes his entire freedom from aches, and pains, and disease of every sort. His mind is as sound as his body—never depressed, never unduly excited—preserving always a cheerful and an unbroken equanimity, and exhibiting none of the effects of care, of time, or of study. In colloquial intercourse he has no superior—gay and sparkling, or grave and meditative,

as occasion may require. He can adapt himself to all conditions of life—kind to all, neither overbearing nor obsequious; a friend to the poor, and no foe to the rich—considering himself on a level with the loftiest, and not above the level of the humblest; without courting the favor of *either*, he seems to enjoy the sympathies and friendship of *both*. With no political attachments or antipathies, while he has always been a federalist, in social intercourse he harmonizes entirely with the democracy of the country, and makes no distinction between the black and red and blue cockade.

In speaking, as has been said, he uses considerable gestures, but his action is suited to the thought. He changes his position frequently, moves backwards and forwards—appeals to court, jury, counsel, and sometimes even the general audience. His pathos melts and subdues, his invective startles and dismays, every one. The full master of the choicest and the most powerful and abundant language, he is never at a loss for the best words in their best places; and with a voice that, for compass and sweetness, has no equal in the United States, he seems to sport rather than to labor, even in his severest professional efforts. He speaks without notes, or any apparent preparation—relies entirely upon his memory for the evidence of a case, however long or complicated—reads few books during an argument—cites principles rather than cases—seldom speaks more than two hours in any case, and runs through his task and his time so smoothly, that you wonder when you are told, he has spoken so long.

His examination of witnesses is as remarkable in its line as his speeches, and, perhaps, manifests even superior mental powers: it is perfectly *sui generis*. His eye is never removed from the witness—he rarely takes a note; he puts his question so plainly, and so directly, as to admit of no equivocation, and never leaves it till he gets an answer. With the mild, he is always mild; with the timid, forbearing; shrewd with the crafty, and resolute with the refractory. Whether it is his great fame, or his innate power as a cross-examiner, it is hard to say; but it is certain that from the moment he takes up the witness, he never lets him go till he exhausts him, or wields a power over him that astonishes every one, and none more than the witness himself. An examination of a witness is generally a dry matter with the multitude—not so in his case; every eye and every mind are fixed upon it, with the most intense interest and anxiety; and it is sometimes left in doubt whether his triumphs are most to be attributed to the fervor, and brilliancy, and beauty of his elocution, or the quickness, acuteness, and power of his examination of witnesses.

In his literature, his mode of composition is somewhat borrowed from his forensic habits. It is peculiar; he never writes himself, but leaves that to his amanuensis, while he walks the room, and sometimes dictates an entire lecture in a single night, without finding it necessary to correct a point or a syllable. He never pauses for, or alters a word. This feature, as has been said, imparts naturally to his written productions somewhat of the character of his speeches; it takes from their simplicity and smoothness, but adds largely to their boldness and vigor. It need scarcely be said, that he composes or writes with great ease. Sertorius was written in two weeks, and the Prophet of St. Paul's in

less than a month, and that too in the midst of heavy professional engagements. One circumstance connected with the former play deserves to be mentioned. At the time when it was written, Mr. Brown's little family were spending the summer at a watering-place, some thirty miles from Philadelphia. He had occasion, from being employed in the Aspden Case, to be daily in Philadelphia. He left the city every evening at dusk on horseback, and arrived at his journey's end about midnight. To beguile his night's ride of its dreariness, and shorten his journey, he employed himself in composing the play, and impressing it upon his memory, and upon his arrival at the Yellow Springs, he committed the result of his agreeable labor to paper. Such was the origin of Sertorius. Upon one occasion, a gentleman having said to him that his play contained some very rough lines. "There is no doubt of it," said the author; "they were concocted, I suppose, while I rode Mr. Sergeant's horse, which was an exceedingly hard trotter, and sometimes blundered a little. This composing upon all fours, is sometimes expedient, but seldom very agreeable or profitable."

The prologues to both the plays referred to, were written by the Hon. Joseph R. Ingersoll, (to whom one of them was inscribed,) a highly accomplished scholar—a gentleman of the most refined literary taste, and one of the soundest lawyers and most brilliant advocates at that time at the bar. And here, in passing, we may be permitted to mention, to the credit of both these gentlemen, that although during a quarter of a century, they were frequently engaged with or against each other in cases of great popular interest and acrimony, they never, during their joint professional career, had the slightest personal difference or displeasure.

The disposition and deportment of Mr. Brown, at the bar, is perhaps best summed up in the last of his "Golden Rules" for lawyers: "Be respectful to the court and the jury, kind to your colleague, civil to your antagonist, but never sacrifice the slightest principle of duty to an overweening deference towards either." One of the most marked features in Mr. B.'s professional life, is his tender regard for his younger brethren at the bar. Their interest and concerns are his. Is a colleague required—he always recommends a young man, though it sometimes adds to, instead of diminishing his labor. Are his young friends in difficulty—he is their advocate. Are their privileges invaded—he is their defender. Having known the difficulties of rising in the profession, he waits not to be solicited, but freely and promptly takes youthful and struggling merit by the hand, and makes its cause his own. He never withholds either advice or assistance, whatever may be the sacrifice. And there are scores of men, at the Philadelphia bar, who can date their rise from an association or connection with the subject of this memoir.

The consequence of this liberal, sympathetic and disinterested course may readily be conceived. Mr. Brown at court is in the heart of his own professional family—treating every one with kindness, and receiving kindness from every one in return. He takes advantage of no man, and no man takes advantage of him—his life is happy, and he reflects the happiness that he derives from those by whom he is surrounded. Why, then, in contemplating these multiplied enjoyments,

should discontented cavilers talk of the asperities and dissensions of the bar?

The man who is the first to make that discovery will find the cause in himself.

As one of the practical manifestations of regard for the advancement of his young friends, at the request of some of the most distinguished among them, in the year 1835 he threw together his Thirty "Golden Rules" for the examination of witnesses, which, as they have been through three editions, and are now in demand through the whole of the United States, and as they convey clear indications of the character of the author, we take leave to present in this connection.

GOLDEN RULES

FOR THE EXAMINATION OF WITNESSES.

There is often more eloquence, more mind, more knowledge of human nature displayed in the examination of witnesses, than in the discussion of the cause to which their testimony relates. Evidence without argument is worth much more than argument without evidence. In their union, they are irresistible!

The trial of a cause may be aptly compared to the progress of a painting. You first lay your ground-work; then sketch your various figures; and finally, by the power and coloring of argument, separate or group them together, with all the advantages of light and shade. But if the ground-work be imperfect, or the delineations indistinct, your labor will frequently commence when it ought to conclude—and even after all, will prove unsatisfactory, if not contemptible; or perhaps it may more justly be likened to a complicated piece of music, wherein a single false note may destroy the entire harmony of the performance.

First.—As to your own witnesses: If they are bold, and may injure your cause by pertness or forwardness, observe a gravity and ceremony of manner towards them, which may be calculated to repress their assurance.

Second.—If they are alarmed or diffident, and their thoughts are evidently scattered, commence your examinations with matters of a familiar character remotely connected with the subject of their alarm, or the matter in issue, as for instance—Where do you live? Do you know the parties? How long have you known them? &c. And when you have restored them to composure, and the mind has regained its equilibrium, proceed to the more essential features of the case, being

Cross-examination.—Except in indifferent matters, never take your eye from that of the witness. This is a channel of communication from mind to mind, the loss of which nothing can compensate.

"Truth, falsehood, hatred, anger, scorn, despair,
And all the passions—all the soul is there."

Second.—Be not regardless, either, of the voice of the witness. The very design to screen conscience from crime, the mental reservation of the witness, is often manifested in the one or accent, or the emphasis of the voice. For instance, it becoming important to know that the witness was at the corner of Sixth and Chesnut streets at a certain time, the question is asked—Were you at the corner of Sixth and Chesnut streets at six o'clock? A frank witness would answer—

careful to be mild and distinct in your approaches, lest you may trouble the fountain again from which you are to drink.

Perhaps I was near there. But a witness who had been desirous to conceal the fact, and defeat your object, (speaking to the letter rather than to the spirit of the inquiry,) answers—no; although he may have been within a stone's throw of the place, or at the very place within ten minutes of the time. The common answer of such a witness would be—I was not at the corner at six o'clock.

Emphasis upon both words plainly implies a mental evasion or equivocation, and gives rise in a skilful examiner, to the question—At what hour were you at the corner, or at what place were you at six o'clock? And in nine instances out of ten, it will appear that the witness was at the place about the time, or at the time about the place. There is no scope for farther illustrations; but be watchful, I say, of the voice, and the principle may be easily applied.

Third.—If the evidence of your own witnesses be unfavorable to you, (which should always be carefully guarded against,) exhibit no want of composure; for there are many minds that form opinion of the nature or character of testimony, chiefly from the effect which it may appear to produce upon the counsel.

Third.—Be mild with the mild—shrewd with the crafty—confiding with the honest—merciful to the young, the frail or the fearful—rough to the ruffian, and a thunderbolt to the liar. But in all this, never be unmindful of your own dignity. Bring to bear all the powers of your mind, not that you may shine, but that virtue may triumph, and your cause may prosper.

Fourth.—If you perceive that the mind of the witness is imbued with prejudices against your client, hope but little from such a quarter—unless there be some facts which are essential to your client's protection, and which that witness alone can prove, either do not call him, or get rid of him as soon as possible. If the opposite counsel perceive the bias to which I have referred, he may employ it to your own ruin. In judicial inquiries, of all possible evils the worst and the least to be resisted is an enemy in the disguise of a friend. You canot impeach him—you cannot cross-examine him—

Fourth.—In a criminal, especially in a capital case—so long as your cause stands well—ask but few questions, and be certain never to ask any, the answer to which (if against you) may destroy your client, unless you know the witness perfectly well, and know that his answer will be favorable equally well; or unless you be prepared with testimony to destroy him, if he play traitor to the truth and your expectations.

you cannot disarm him—you cannot indirectly even assail him; and if you exercise the only privilege that is left to you, and call other witnesses for the purpose of explanation, you must bear in mind, that instead of carrying the war into the enemy's country, the struggle is between sections of your own forces, and in the very heart, perhaps, of your camp. Avoid this by all means.

Fifth.—Never call a witness whom your adversary will be compelled to call. This will afford you the privilege of cross-examination, take from your opponent the same privilege it thus gives you, and, in addition thereto, not only render everything unfavorable said by the witness doubly operative against the party calling him, but also deprive that party of the power of counteracting the effect of the testimony.

Sixth.—Never ask a question without an object—nor without being able to connect that object with the case, if objected to as irrelative.

Seventh.—Be careful not to put your question in such a shape that, if opposed for informality, you cannot sustain it, or, at all events, produce a strong reason in its support. Frequent failures in the discussion of points of evidence enfeeble your strength in the estimation of the jury, and greatly impair your hopes in the final result.

Eighth.—Never object to a question from your adversary, without being able and disposed to enforce the objection. Nothing is so monstrous as to be constantly making and withdrawing objections,—it either indicates a want of correct perception in making them, or a deficiency of reason, or of moral courage, in not making them good.

Fifth.—An equivocal question is almost as much to be avoided and condemned as an equivocal answer. Singleness of purpose, clearly expressed, is the best trait in the examination of witnesses—whether they be honest or the reverse. Falsehood is not detected by cunning, but by the light of truth, or if by cunning, it is the cunning of the witness and not of the counsel.

Sixth.—If the witness determine to be witty or refractory with you, you had better settle that account with him at first, or its items will increase with the examination. Let him have an opportunity of satisfying himself either that he has mistaken your power or his own. But, in any result, be careful that you do not lose your temper. Anger is always either the precursor or evidence of assured defeat in any intellectual conflict.

Seventh.—Like a skilful chess-player, in every move fix your mind upon the combinations and relations of the game—partial and temporary success may otherwise end in total and remediless defeat.

Eighth.—Never undervalue your adversary; but stand steadily upon your guard. A random blow may be just as fatal, as though it were directed by the most consummate skill—the negligence of one often cures, and sometimes renders effective, the blunders of another.

Ninth.—Speak to your witness clearly and distinctly, as if you were awake, and engaged in a matter of interest; and make him also speak distinctly and to your question. How can it be supposed that the court and jury will be inclined to listen when the only struggle seems to be—whether the counsel or the witness shall first go to sleep?

Tenth.—Moderate your voice as circumstances may direct. "Inspire the fearful, and repress the bold."

Eleventh.—Never begin before you are ready—and always finish when you have done. In other words, do not question for question sake—but for an answer.

Ninth.—Be respectful to the court and the jury—kind to your colleague—civil to your antagonist—but never sacrifice the slightest principle of duty to an overweening deference towards either.

In the year 1850, actuated by the same philanthropic spirit, Mr. Brown prepared what he calls "Capital Hints for Capital Cases," intended for the instruction of his son, just then admitted to the bar, but also designed for the benefit of all those whose attention might be directed to the higher order of criminal practice. As these instructions are brief, and the edition has been exhausted, they are also presented to the reader and to the profession.

CAPITAL HINTS IN CAPITAL CASES.

INSTRUCTION FROM A FATHER TO A SON.

BY DAVID PAUL BROWN.

Firmness and decision are as necessary as knowledge and talent; the heart can do almost as well without the head as the head without the heart. There can be no cold-blooded defence. An appropriate and becoming manner is scarcely less necessary than appropriate and becoming matter. A judicious and clear development of the facts of a case, is as important as the ablest and most eloquent argument. In a doubtful case, a skilful examination alone may secure a verdict; but the best argument, without such an examination, will generally result in a failure. An artist cannot paint without his colors; and the facts derived from the testimony, are the colors or materials for the speech.

There is what may be called an argumentative cross-examination, which exhibits to the jury the reasoning of the counsel, in immediate direct connection with the evidence of the witnesses. For instance, suppose the following cross-examination of a witness:

Have you had any dispute or difference with the defendant? No. Have you been upon friendly terms with him for many years? Yes. Have you been under obligations to him? Yes. Well, then, having had no difference, but being for a long time upon friendly terms, and being also under obligation and bound in gratitude to him, how did it happen that you were so vigilant and active in your efforts for his detection and conviction?

An examination of this character can scarcely fail justly to produce most unfavorable impressions of the witness.

Again, it is sometimes judicious to compel him to exhibit his own unworthiness of belief, by bringing before him direct and unequivocal contradictions in his testimony, and then asking him to explain and reconcile them if he can. I have seen a witness struck dumb by this mode of cross-examination; and in many cases it is much better thus to present it, than to reserve the contradiction for after discussion;—it is fresher, fairer, more candid and more efficient.

Before you venture upon the trial of a capital case, be well assured in your own mind, that you are competent for the hazardous duty you are about to assume. Remember the blood of the defendant may be upon you, if your task be feebly performed, and do not, therefore, allow a feverish desire for premature notoriety, in a case of great popular excitement, to blind you to the difficulties and dangers by which you will be inevitably surrounded. The trumpet of fame cannot drown the small still voice of remorse.

Being well assured that you are able in point of intellect and knowledge, be equally well convinced that your feelings are deeply enlisted for the hapless being you are called upon to defend, and that these feelings, instead of impairing your efforts, will contribute to strengthen and enforce them. You should feel as though you were defending yourself, which you will naturally do by constantly holding in view the life of the prisoner, the gibbet, and his forlorn and heart-stricken survivors.

You must know no fear but that of failure; and even that, you must permit nobody else to discover through you. Waive no right that you possess that may affect the defendant—yield tribute to no authority that is illegitimately exerted to his injury—recollect you guard the citadel of human life—be wary, and be firm. The judge and the jury, it is true, may take the life of the prisoner, but you are not to give it away. They must reach it over your own prostrate body.

In all you think, and say, and do, remember your strength is nothing; there is but one arm that is powerful to save, and in relying upon that arm you derive a support, the mere consciousness of which is both a sword and shield in the hour of extremest peril. You may not acquit the guilty; nay, you may not acquit the innocent; but you will, at least, by a firm, faithful and fearless discharge of your duty, acquit yourself!

I have said, that manner is scarcely less necessary than matter; indeed, rightly considered, it is matter.

You must enter upon the trial of a capital case, as a physician should enter the death-bed scene—calmly, gravely, solemnly—all eyes are upon you—all hopes are upon you—all fears are upon you. There is no time for flippancy, agitation, or irresolution—much less, for smiles or merriment; sport would as well become a charnel-house.

Stand by the prisoner while he makes his challenges; advise with him, comfort him and sustain him. When you repeat his challenges, do it in a mild and inoffensive way, lest you may create enemies, while your chief object is to secure friends.

If you ever challenge for cause, and the challenge fail, be certain that you have not exhausted your right to a peremptory challenge, and invariably exercise it.

Never challenge the twelfth juror, unless you are reasonably certain that he who may be called in his place, will be more favorable to the prisoner.

The jury being complete, deliberately proceed to the trial of the cause. I say deliberately—no hurry—no confusion—no gossip—no levity—no divided attention, note everything with the "very comment of your soul," and while you look at all, bear in mind, the prisoner, and all connected with him, look at you. If the unhappy man have a family, much as it may cost, the family should be present in the hour of his extremest need. He will suffer more, and they will suffer more, by their absence. Their presence gives a proper tone and complexion to the awful scene. It is worth a thousand fancy sketches of domestic, parental, conjugal or filial agony. When the verdict shall be returned, take your post by the prisoner, calm, collected, prepared for and equal to, either fortune.

If your efforts should be crowned with success, be grateful to that Power which controls all things, but exhibit no vain spirit of triumph. If the defendants be convicted, nerve yourself to receive, and bear the blow, and do not despair; much still remains to be done. After a verdict of guilty, if you doubt the sufficiency of the evidence, or charge of the court, or the decision of the judge, upon the points of law, or fairness of the jury, move for a new trial; if none of these grounds exist, or if you should urge them unsuccessfully, enter a motion in arrest of judgment, provided there is any actual or supposed error upon the face of the record.

If this effort should also fail, the next awful step will be the judgment. Here, too, you must be present, and when the judge inquires of the prisoner, what he has to say, why sentence of death should not be pronounced against him, if there be any such reason, be careful that it be supplied.

The sentence having been passed, the death warrant issues—your application for a pardon has been refused, the drop falls—and then and not till then, your duties are done.

To conclude, the condition of an advocate for a defendant, in a capital case, may be aptly compared to that of a commander of a ship in a storm; the cordage snaps, the masts go by the board, the bulwarks are carried away, her hull springs a-leak, every dependence from time to time fails, and ruin appears to be inevitable; but still, amidst the "wreck of matter," sustained by the immortal mind, with a resolved will, the gallant commander stands by his helm to the last, determined either to steer his shattered vessel into port, or to perish gloriously in the faithful discharge of his duty.

At the April sessions of the Circuit Court of the United States, a case of absorbing and terrific interest was brought to trial—it was a prosecution against William Holmes, for the murder of Francis Askin, and arose out of the following circumstances: The American ship, William Brown, left Liverpool on the 13th of March, '41, bound for Philadelphia. She had on board seventy-three of a crew, and sixty-five passengers, Scotch and Irish. About ten o'clock of the night of the 19th of April, when distant two hundred and fifty miles south-east of Cape

Race, the vessel struck an ice-berg, and filled so rapidly that it was evident she must soon go down. The long-boat and jolly-boat were lowered; the captain, second mate, and seven of the crew, got into the jolly-boat; the first mate and seamen, of whom the prisoner was one, and thirty-two passengers, got indiscriminately into the long-boat; the remaining thirty-one passengers were obliged to remain on board the ship. In an hour from the time when the ship struck, she went down, carrying with her every person who had not escaped to one or other of the boats. On the following morning, the captain, in parting company with the long-boat, gave its crew directions to obey all the orders of the mate as they would obey his, (the captain's,) which they promised should be done. The long-boat, however, leaked, and all on board were in great jeopardy. The gunwale was within five to twelve inches of the water, and was supposed to be too unmanageable to be saved. In a moderate blow she would have been swamped very quickly. The people were all crowded together like sheep in a pen, and the least irregularity in the stowage would have capsized the boat; and, as was sworn, if she had struck any piece of ice, she would have inevitably gone down; at the best, her chances of living were much against her. Notwithstanding all this, she did survive until ten o'clock on Thursday night, the crew rowing by turns, and the passengers bailing. On Tuesday morning it began to rain, and continued till night; at night the wind freshened, the sea grew heavier, and splashed over the boat's bow; pieces of ice still floated around, and, during the day, ice-bergs had been seen. At length the mate exclaimed, "Help me, God! men, you must go to work, or we shall all perish!" About ten o'clock on Tuesday, the prisoner and the rest began to throw over some of the passengers, and did not cease until they had thrown over fourteen male passengers: among them was Askin, to whom this indictment related. Holmes was one of the persons who assisted in throwing the passengers over. He was a Finn by birth, had followed the sea from youth, and his frame and countenance were models for decision and strength. He had been the last man of the crew to leave the sinking ship; his efforts to save the passengers at the time the ship struck had been conspicuous, self-forgetful, and most generous. He was a most skilful and obedient sailor—kind and obliging in every respect to the passengers and crew;—he finally became the only one whose energies and hopes were not prostrated; and it was through his means that the remnant of the crew and passengers were saved. The case was conducted for the United States by Mr. Meredith, Mr. Dallas, and Mr. Hopkinson; the defence, by David Paul Brown, Mr. Hazzlehurst, and Mr. Armstrong. Our space does not allow us to go into the minutiæ of the case, or a detailed account of the argument of the counsel. The case was one of great excitement, and the court-room was crowded for near a week with much of the beauty, fashion, and intelligence of the city. We have given the general outline, as introductory to an extract from the speech of Mr. Brown in his admirable defence, drawn from Wallace's Reports of the Circuit Court of the United States:

* * * "This case should be tried in a long-boat, sunk down to its very gunwale, with forty-one half-naked, starved, and shivering wretches; the boat leaking from below, filling from above; a hun-

dred leagues from land; at midnight; surrounded by ice; unmanageable from its load, and subject to certain destruction from the change of the most changeable of the elements—the winds and the waves. To these, superadd the horrors of famine, and the recklessness of despair, madness, and all the prospects, past utterance, of this unutterable condition. Fairly to sit in judgment on the prisoner, we should, then, be actually translated to his situation. It was a conjuncture which no fancy can image. Terror had assumed the throne of reason, and passion had become judgment. Are the United States to come here now, a year after the events, when it is impossible to estimate the elements which combined to make the risk, or to say to what extent the jeopardy was imminent—are they, with square, rule and compass, deliberately to measure this boat, in this room; to weigh these passengers; call in philosophers; discuss specific gravities; calculate by the tables of a life-insurance company the chances of life; and because they, these judges, find that, by their calculation, this unfortunate boat's crew might have had the thousandth part of one poor chance to escape, to condemn this prisoner to chains and a dungeon for what he did in the terror and darkness of that dark and terrible night? Such a mode of testing men's acts and motives is monstrous!

"We contend, therefore, that what is honestly and reasonably believed to be certain death, will justify self-defence in the degree requisite for excuse. According to Dr. Rutherford, (*Inst. of Nat. Law, Book I., chap.* 16,) 'this law'—*i. e.* the law of nature—'cannot be supposed to oblige a man to expose his life to such dangers as may be guarded against, and to *wait till the danger is just coming upon him*, before it allows him to secure himself.' In other words, he need not wait till the certainty of the danger has been proved, past doubt, by its result. Yet this is the doctrine of the prosecution. They ask us to wait until the boat has sunk; we may then make an effort to prevent her from sinking. They tell us to wait till all are drowned; we may then make endeavors to save a part. They command us to stand still till we are all lost, past possibility of redemption, and then we may rescue as many as can be saved! 'Where the danger is instantaneous, the mind is too much disturbed,' says Rutherford, in a passage heretofore cited, 'to deliberate upon the method of providing for one's own safety, with the least hurt to an aggressor.' The same author then proceeds: 'I see not, therefore, any want of benevolence which can be reasonably charged upon a man in these circumstances, if he takes the most obvious way of preserving himself, *though perhaps some other method might have been found out which would have preserved him as effectually, and have produced less hurt to the aggressor*, if he had been calm enough, and had been allowed time enough to deliberate about it.' (*Rutherford Inst. of Nat. Law, Book I., chaps.* 16, 5.) Nor is this the language of approved text-writers alone. The doctrine has the solemnity of judicial establishment. In 'Grainger *v.* the State,' (*5th Yerger's Rep.*, p. 459,) the Supreme Court of Tennessee deliberately adjudge, that '*if a man, though in no great danger of serious bodily harm, through fear, alarm, or cowardice, kill another, under the impression that great bodily injury is about to be inflicted on him, it is neither manslaughter nor murder, but self-defence.*' 'It is a different thing,' say the

Supreme Court of the United States, in the Mariana Flora, 'to sit in judgment upon this case, after full legal investigations, aided by the regular evidence of all parties, and to draw conclusions at sea, with very imperfect means of ascertaining facts and principles which ought to direct the judgment.' (*11th Wheaton's Rep.*, p. 51.) The decision in the case just cited, carried out this principle into practice; as the case of The Luis, decided by Sir William Scott, had done before. (*2nd Dodson's Admiralty Rep.*, p. 264.)

"The counsel cited Lord Bacon, likewise, (*Works by Montague*, vol. 13th, p. 160: Lond. 1831;) and *4th Blackstone's Com.*, p. 160. But the prospect of sinking was not imaginary. It was well founded. It is not to be supposed that Holmes, who, from infancy, had been a child of the ocean, was causelessly alarmed; and there being no pretence of animosity, but the contrary, we must infer that the peril was extreme. As regards the two men cast over on Wednesday, the presumption is, that they were either frozen or freezing to death. There being at this time no prospect of relief, the act is deprived of its barbarity. The evidence is, that the two men were 'very stiff with cold.'

"Besides, this indictment is in regard to Askin alone. There is no evidence of inhumanity on Tuesday night, when this throwing over began; though it is possible enough, that having proceeded so far in the work of horror, the feelings of the crew became at last so disordered as to become unnatural. [The learned counsel then examined the evidence, in order to show the extremity of the danger.]

"Counsel say that lots are the law of the ocean. Lots in cases of famine, where means of subsistence are wanting for all the crew, is what the history of maritime disaster records; but who has ever heard of casting lots at midnight, in a sinking boat, in the midst of darkness, of rain, of terror and of confusion? To cast lots when all are going down, to decide who shall be spared; to cast lots when the question is, whether any can be saved, is a plan easy to suggest; rather difficult to put in practice. The danger was instantaneous, a case, says Rutherford (*Inst. of Nat. Law, Book I., chap.* 16, § 5,) when 'the mind is too much disturbed to deliberate'—and where, if it were 'more calm,'—there is no time for deliberation. The sailors adopted the only principle of selection which was possible in an emergency like theirs; a principle more humane than lots. Man and wife were not torn asunder; and the women were all preserved. Lots would have rendered impossible this clear dictate of humanity.

"But again: the crew either were in their ordinary and original state of subordination to their officers, or they were in a state of nature. If in the former state, they were excusable in law, for having obeyed the order of the mate; an order twice imperatively given. Independent of the mate's general authority in the captain's absence, the captain had pointedly directed the crew to obey all the mate's orders as they would his, (the captain's,) and the crew had promised to do so.

"It imports not to declare, that a crew is not bound to obey an unlawful order; for to say that this order was unlawful, is to postulate what remains to be proved. Who is to judge of the unlawfulness? The circumstances were peculiar. The occasion was emergent; without precedent or parallel. The lawfulness of the order is the very question

we are disputing; a question about which the whole community has been agitated, and is still divided; the discussion of which crowds this room with auditors past former example; a question which this court, with all its resources, is now engaged in considering—as such a question demands to be considered—*most deliberately, most anxiously, most cautiously.* It is no part of a sailor's duty to moralize and to speculate, in such a moment as this was, upon the orders of his superior officers. The commander of a ship, like the commander of an army, 'gives desperate commands. He requires instantaneous obedience.' The sailor, like the soldier, obeys by instinct. In the memorable, immortal words of CARNOT, when he surrendered Antwerp in obedience to a command which his pride, his patriotism and his views of policy all combined to oppose: 'THE ARMED FORCE IS ESSENTIALLY OBEDIENT: IT ACTS, BUT NEVER DELIBERATES.' The greatest man of the French revolution did here but define, with the precision of the algebraist, what he conceived with the comprehension of a statesman; and his answer was justification with every soldier in Europe! How far the principle was felt by this crew, let us witness the case of this very mate, and of some of these very sailors, who, by the captain's order, left the jolly-boat, which had but ten persons, for the long-boat, with more than four times that number. See ante, page 2 in note. They all regarded this as going into the jaws of death; yet, not a murmur! It is a well-known fact, that in no marine on the ocean is obedience to orders so habitual and so implicit as in our own. The prisoner had been always distinguished by obedience.

"Whether the *mate*, if on trial here, would be found innocent, is a question which we need not decide. That question is a different one from the guilt or innocence of the prisoner, and one more difficult.

"But if the whole company were reduced to a state of nature, then the sailors were bound to no duty, not mutual to the passengers. The contract of the shipping articles had become dissolved by an unforeseen and overwhelming necessity. The sailor was no longer a sailor, but a drowning man. Having fairly done his duty to the last extremity, he was not to lose the rights of a human being, because he wore a roundabout instead of a frock-coat. We do not seek authorities for such doctrine. The instinct of these men's hearts is our authority; the best authority. Whoever opposes it must be wrong; for he opposes human nature. All the contemplated conditions; all the contemplated possibilities of the voyage, were ended. The parties, sailor and passengers, were in a new state. All persons on board the vessel became equal. All became their own law-givers; for artificial distinctions cease to prevail when men are reduced to the equality of nature. Every man on board had a right to make law with his own right hand—and the law which did prevail on that awful night having been the law of necessity, and the law of nature, too, it is the law which will be upheld by this court, to the liberation of this prisoner."

In the year 1843, the case of "Farkin," for murder, was tried in the Court of Oyer and Terminer of Philadelphia county. For the history of this case we are indebted to the following sketch, from the pen of one of Mr. Brown's opponents in the trial. We give it the more at length, as its extraordinary features will no doubt render it interesting and instructive, not only to the legal profession, but to the general reader.

Among the very many and important causes, involving life and liberty, which it has fallen to the lot of Mr. Brown to carry triumphantly through the ordeal of a court of criminal law, perhaps no single one was more remarkable, than the case of the Commonwealth of Pennsylvania against John Farkin, tried for murder in the Court of Oyer and Terminer of Philadelphia, in April, 1843. If the "*quiddam honorarium*," now-a-days in the profession, has become almost the invariable condition precedent for the appearance in the judicial forum of professional talent of the first order, to Mr. Brown's high honor be it spoken, that the destitute and oppressed ever find in him, in the midst of lucrative and important business, a kind and generous protector. Commanding business of the highest class, he will turn aside from it, with cheerfulness and kindness, and exercise his fine abilities, in the trial of a criminal cause, where, believing that the law opens a just and honorable defence for his client, he can hope for no other reward than that derived from the consciousness of relieving a fellow-being in distress. It is this generosity of heart, moved by the impulse of genius, which has ever characterized those most eminent for forensic eloquence. Mr. Brown's career, like that of every distinguished advocate, abundantly proves how rich in principles are the causes of the lowly and the poor, and how the creative powers of genius are able to call forth from them images and even truths, which never present themselves to the mind of ordinary power.

The case of John Farkin was one of that class. He was a poor Irishman, who had emigrated to the United States in 1841, and for two years had picked up a precarious subsistence as an itinerant clock vender. On a pleasant Tuesday afternoon, in April, 1843, there was a happy little family collected around an humble meal, at a house in the neighborhood of Fairmount, in the county of Philadelphia. James Lehaman, his wife, and five young children, with a female relative, were assembled at the supper-table, and the work of the day was over. A knock at the door roused their attention, and a man, subsequently, and soon after to make that circle one of mourning and of death, presented himself. He was ragged and dirty, but, beyond this, there was nothing remarkable in his appearance or manner. He inquired if the family had any clocks to mend, and an agreement was made that he was to repair a clock, and if it went well for four days, was to receive his pay, and, for that purpose, was to call on the fourth day. These preliminaries being settled, he was taken to an upper room by James Lehaman, where he commenced his work, and Lehaman returned to his family.

In a short time Farkin returned, saying he had mended the clock. He picked up his tools, and asked permission to board in the family, as he was very poor, and had no home. This was objected to by the wife, although with entire consideration for the feelings of Farkin; the reason given being that the house was small, and the family large. He complained of having lost his knife—it was looked for; but he stopped further search, remarking, he had found it in his pocket. He then told James Lehaman to be at home on Saturday at four o'clock, and he would call to receive his money. It was thus, and within the brief period of about a quarter of an hour, that Farkin first came into, and left the house of, his subsequent victims. An open common stood opposite

the house of Lehaman. As soon as Farkin reached it, he was seen to turn, and, approaching, he entered, without knocking, the house he had just left. His manner was composed, but determined, and the following dialogue took place between himself and Lehaman:

Farkin—"I want my money, or I'll break the clock."

Lehaman—"This was not our bargain. Where do you keep your establishment, that, if the clock's spoiled, I can find you?"

Farkin—"I keep my establishment in my pocket, sir."

Farkin rather became enraged at the last remark of Lehaman, or acted on his determination to carry into execution his threat of breaking the clock unless he was paid; for he instantly rushed towards Lehaman, who was standing near the staircase, pushed him violently aside, and proceeded to go up stairs. Lehaman followed—endeavored to stop him—got on the stairs first; his wife followed, and Farkin came up last. As he ascended, he was seen to take his knife out of his pocket, open, and hide it up his sleeve. Jane Lehaman (the wife) held her arm against the wall of the staircase, to impede the progress of Farkin; but he pressed forward, and, putting his head under her arm, stabbed her husband, and he fell instantly dead on the staircase. The deceased's eldest son, a little boy not more than nine years old, seeing his parents in that situation, not aware that the spirit of one had already fled, ran up to the murderer with a broom-stick in his little hands, to aid in their defence. It was the spirit of infantine heroism, kindled by the instinct of filial love, that moved the heart of the brave boy to that unequal contest. The murderer turned, and looked at him, with the remark, "Eh, you've come to help your father;" and, seizing him with one arm, he stabbed him with the other, and the noble child fell bleeding to the floor. Fortunately *that* stab proved not to be fatal. The female relative now approached him, to aid in the rescue of the child, and at her, too, he plunged his murderous weapon. She escaped him, and hid up the chimney. Farkin next rushed, knife in hand, at the wife of the deceased; but she fled through a back door. He then hastily turned towards the front door, opened it, returned to pick up his hat, and then left the house. Jane Lehaman instantly followed. Death was in her household, terror in her countenance, and agony in her heart. She followed now,—far more an object of observation than the unhappy murderer; for he walked calmly and deliberately along the pavement, stopped at the corner of a street, and the woman approached him. No words of repentance, no remark escaped him. He said sternly to her, "come one step further, and I'll treat you as I've treated the rest." So calm was he, that the neighbors, when first told by her of what had happened, could not believe that *he* was the man who had done such dreadful deeds.

But the cry of murder had gone forth, the widow charged him boldly, and blood was on his face. He ran, and the hue and cry was raised upon him. He ran fearfully; his knife was open in his hand; he struck at one, and another, who tried to arrest him, and finally, seeing a man making mortar in the street, rushed at him, and endeavored to seize his mortar hod. At this point he was arrested; he instantly threw his knife away, and said, "I give up." After his arrest, he said on his way to prison, "I pray God he is dead; it was a fair contract;" and while in

prison, "I didn't give him half as much as I ought to have given him."

Such is a brief synopsis of the facts. The indictment was soon presented, and the prisoner arraigned.

Mr. Brown was sent for.

By the Court.—Mr. Brown, this prisoner is charged with murder; the officer of the government informs us that the case is one of great importance; the prisoner is unable to employ counsel, and we desire to know if you will represent him in the cause.

Mr. Brown.—"May it please your honors, I am much pressed with professional engagements, but the peril of the prisoner, and the suggestion of the court, induce me to put them aside, and to undertake the duty the court is pleased to assign me."

Junior counsel is associated with him, two days is given to prepare the cause, and on Friday, the 24th of May, it is called up. Mr. Brown, during no part of a trial, is more remarkable, or happy, than in the preliminary skirmishing which precedes the main duty of grappling with his adversary in argument.

It is not the intention of this notice to enter upon the details of the case of Farkin, as they appeared in evidence, under the plea of "Insanity," which was entered by his counsel. The case was selected as illustrative of the ardor and devotion with which Mr. Brown clings to the cause of a destitute client, who confides to him in the hour of peril, and in jeopardy of life; and how little the dark features of the darkest criminal cause appal him. The court sat from 10 o'clock, Friday morning, until near midnight of the same day; and from 10, on Saturday morning, until half-past two on Sunday morning; when the prosecuting officer made his closing speech, and the judge charged the jury.

Mr. Brown took the exclusive examination of the witnesses. The government had not known, or omitted to prove the fact of the prisoner assailing with his knife every one whom he met in his flight.

Mr. Brown brought it out on cross-examination. The tyros of the bar smiled to each other, signifying, that with all his eminence as an advocate, and his special reputation in the examination of witnesses, he had missed it in eliciting these startling and unwelcome facts. Not so with the counsel. He boldly insisted upon exhibiting the whole of that bloody drama. Every scene in it he depicted with fidelity and power. If the facts of his defence made out insanity to the satisfaction of the jury, then every homicidal act by the prisoner was but the stronger proof of the theory of the defence. If the plea of insanity failed, the counsel sagaciously determined that he could deduce from all this most unusual and ferocious conduct of the prisoner, a strong argument, to show that he had committed the homicide under a violent burst and tempest of passion, rather than deliberate malignity of heart. The case was so desperate, no boldness of interrogation could make it worse.

It was shown that the prisoner was a poor outcast from happiness and home. He had deserted, or had been deserted by, a wife and children. Those who had known him in earlier life in his own country, testified that he had always been an isolated, desolate person, moody in temper, uncertain in habits and pursuits.

Many idle, extravagant things done and said by him, as bearing upon the state of his mind, were introduced into the defence, especially (and

but under one view, it was clearly irrelevant evidence) his declarations and conduct after his imprisonment—one of the prison keepers testifying that the prisoner told him "it was a fair bargain, to be paid when the clock was done, and then he wouldn't pay me for four days. I went to go up stairs, to break the clock, or put it out of that. He stopped me, threw an otter skin at me, and I then thrust a screw-driver into him."

It was on this theory that Mr. Brown based an ingenious and powerful appeal to the jury. He rose to speak, at about ten on Saturday night; it was past midnight when he sat down.

His speech on that occasion was one of great power, and infinitely honorable to him as a man of kindly and generous feelings, as well as professional merits. Never having seen the desolate prisoner before, never perhaps to see him again, his exertions in his behalf are most favorably remembered by all who were conversant with the facts at the time. Mr. Brown, though making the most of the evidence, seemed conscious that the plea of insanity was not sustained, and he exerted all his ingenuity and power to mitigate the decree of homicide, and reduce it to manslaughter. He pressed upon the jury, how the training of the heart and temper is directed by man's physical condition, and how prone to angry passions are those whose minds and feelings have expanded under the rigors and bitterness of ignorance and want. The attack of the prisoner upon the harmless child he used with fine effect. And urged upon the jury, that if, under a full view of all the facts of the case, they should be of opinion that the fatal blow was given to the deceased in a moment, of even the most unprovoked passion, they must spare his life, and return a verdict for manslaughter. On the conclusion of the address of the officer of the government, the judge proceeded to charge the jury at two A. M. By Mr. Brown: "I object to your honor charging this jury, unless your colleague is on the bench."

By the Attorney-General: "Can we not consent to the charge in his absence; it is a very unreasonable hour, and his honor the Associate Judge has gone home."

By Mr. Brown: "I consent to nothing in a capital case; it is as much his honor's duty to be here, as mine; and I shall take advantage of his absence."

The absent judge was sent for, who lived two miles off, and who had gone quietly off, at about eleven o'clock. He was roused from his bed, and came in about half an hour. The jury received the charge at about half-past two, and retired at ten on Sunday morning; the prisoner was brought up, the jury returned to their box, and rendered a verdict of guilty of murder in the *second degree.*

Thus, by Mr. Brown's devotion and abilities may be said to have been saved the life of the unhappy prisoner; for certainly, no ordinary advocate could have turned aside the current which was bearing him towards death.

Mr. Brown is of the middle height, compactly made, with a full, round chest; his forehead is high and broad; eyes black; mouth large, and filled with the finest teeth imaginable—a gift almost essential to an orator. His voice is of great compass: it ranges from the lowest notes of the flute to the highest blast of the bugle. He has an admirable

temper. No one ever saw him lose his self-possession, even in moments of the greatest anxiety, tumult and consternation; nor can it be discovered from his deportment during a trial whether it is prosperous or perilous. If there be any difference, it consists in this—that he steers his bark more boldly in a rough sea. We have often seen him, in forensic conflicts, involving considerations of life and death, where even the bystander seemed terrified and appalled, calm and collected and firm, as a rock amid the wild and wasteful ocean.

In rising to address the court and jury upon any matter of deep concernment, he almost invariably becomes pale, and continues so until the reaction in the system takes place. Then his eyes sparkle or melt; his voice varies according to the theme; all his features are in full play, and the most accomplished actor, in his attempts at dramatic effect, never was more true to nature.

Mr. Brown is said to quote a great deal from Shakspeare; this, we we think, is a mistake. That he is a devotee to the immortal bard, no one can doubt, but still he quotes him less than many members of the bar, and much less than he quotes other authors. No man, it is true, is more familiar with this "myriad-minded" poet. The reason assigned for it is this: Mr. Brown's parents were quakers, and by them the reading of Shakspeare by their son was strictly prohibited; nevertheless, though it does not speak well for his obedience, he sought "the sealed book," and at the early age of ten years made himself master of its treasury, and built upon this best of all models the entire structure of his language. And now, as Chief Justice Gibson once said, "He does'nt quote Shakspeare, but speaks Shakspeare."

Mr. Brown is not a flippant speaker, nor what is generally called a fluent speaker. He is an eloquent speaker. His manner, his matter, his language, all cohere together, and are all directed to the enforcement of his argument. In his management of a cause, he is like no one else, and although he has many imitators, the copies have not the slightest resemblance to the original; the one springing from nature, the other from art. In his most rapid declamation, he never halts or stumbles—never drops one word, and picks up another—never falls into false grammar or incorrect pronunciation—never, in quoting, departs from his text, but blends the most scrupulous exactness with the most overwhelming energy. Blessed with a clear and distinct memory, he rarely resorts to notes either for evidence or arrangement; but having, as it were, everything in his own mind, his great effort seems to be to transfuse it into the minds of others.

Notwithstanding these admirable qualities, some of his notions are peculiar. Great men, with few exceptions, are said to be indifferent to mere externals—to despise costly or gaudy apparel, and the display of tinsel and finery. Not so, however, with the subject of this memorial. He is, perhaps, too much devoted to dress, though apparently regardless of it; and instead of attempting to excuse, he vindicates his propensity to display. Upon a recent occasion, when rebuked by an adversary who was of an opposite character, he promptly replied, that "he had never known a man to speak well in clumsy boots, nor to have a clean mind with dirty hands and face; but that he had known many a fop that was not a fool, and many a *sloven* that was not a

SOLOMON." "A becoming decency of exterior," said he, "may not be necessary for ourselves, but it is agreeable to others; and while it may render a fool more contemptible, serves to embellish inherent worth. It is like the polish of the diamond, taking something, perhaps, from its weight, but adding much more to its brilliancy and attraction." In endurance, and what may be called the alacrity and facility of labor, as well as the ability to make sudden transitions from one mental employment to another without any signs of distress, he stands alone. We have seen others do this, but never with so much apparent ease. Mr. Brown has been known repeatedly to be engaged upon trials going on in four courts at the same time, and to give the necessary attention to all, and to argue all, without confounding facts and names of parties or witnesses in the course of the discussion. It is not so remarkable that this should be done; as that it should be so well done.

For the last quarter of a century he has been incessantly employed, and spoken almost daily; and after labors such as we have mentioned in the different courts, he will proceed, without interval or refreshment, to his three or four arbitrations or audits, and finally in the evening close his toils by delivering a discourse for hours before some college class, or literary, or political association. Thus passes his life. It is nearly closed—and it may be truly said, that there have been few lives of greater labor, or greater pleasure. No man has ever seen him angry or discontented. In prosperity and adversity he is unchanged, apparently unaffected, and the elements are so mixed in him that he seems to take with equal favor fortune's buffets or rewards.

A lawyer's life, it may be said without intending any play upon words, is emphatically a life of trials. He has scarcely any domestic existence; and the more extensive his business, the more applicable is the remark. He neither rises nor falls with political dynasties,—shuns legislative honors, and disdains official dignities; he moves and breathes, and has his being almost solely in the crowds and clamors of diversified litigation. There he often encounters abilities of the first order, and sometimes perhaps of the worst order. There his temper and his talents are both daily and hourly tested. His triumphs and defeats are so interwoven, or the one follows the other so closely, that they almost lose their distinctive identity, and blend the pleasures and pains of life so together, as to render it difficult to determine which is the more prominent and characteristic. One day is like another in this—that all are busy—all are anxious—all are made up of hopes and fears, clouds and sunshine; and so continuous and unvaried is this truth, that this uninterrupted variety actually becomes monotony, yet running as it were in a circle, traveling over the same ground, and knowing no end.

HON. SAMUEL MAXWELL HARRINGTON,

OF DOVER, DELAWARE.

SAMUEL Maxwell Harrington was born in Dover, February 5, 1803, of respectable parents, descended from English ancestors on the paternal, and German on the maternal side. He was indebted to his

mother for the promptings of literary ambition, through early instruction procured for him by many sacrifices, which it was his happiness, in after life, to reward by the tender care of her declining years. He completed his academic studies in Washington College, Maryland, under the presidency of Doctor Francis Waters; where he was graduated, in 1823, with the first honors of his class. The death of his father, during his own minority, devolved upon him, with very inadequate means, the charge of a widowed mother and two sisters. He began life when a boy, in the office of the clerk of the Supreme Court, where he acquired a taste for legal learning, which afterwards, by proper cultivation, elevated him to the bench. From this he passed, by kind invitation, into the office of the late Henry M. Ridgely; and subsequently completed his legal studies, by similar kindness, with Martin W. Bates, then and yet a distinguished lawyer at the Delaware bar. He had much to discourage him in this preparatory training, but "all things are possible to him that wills." Let his success stimulate every young man who has the courage to attempt, and the firmness to achieve, the control of his own position. Feeble health; embarrassed circumstances; inherited responsibilities; doubtful prospects in entering a bar already filled with talent—all these were met with fortitude and courage; while, by persevering study, he not only prepared himself for future action, but attracted the regards of those with whom he was to act. In this respect he was eminently fortunate. We have heard him mention, with grateful acknowledgment, the early friendship of Governor Hazzard, John M. Clayton, Thomas Clayton, Governor Polk, General Green, and others, in addition to the friends to whom he owed his legal education.

Admitted to the bar, the same qualities which had prepared him for it, secured him success in the practice. Without brilliancy, without pretensions to stirring eloquence, he manifested at once the better qualities of learning, discrimination and sound judgment; which, directed by industry; and governed always by integrity, brought him public confidence and professional success. Upon these qualities he soon rose to such distinction, that on Mr. Clayton's retiring from the office of Secretary of State, during Governor Polk's administration, he was appointed to that responsible post at the early age of twenty-six. He was again called to the same office in 1830, by Governor Hazzard, during whose administration, embarrassed by the breaking up of old, and the formation of new party lines, the state department was conducted with acknowledged ability and success.

During this administration, also, the constitution of the state was revised, and the judiciary system changed; but before the change took place, a vacancy occurred on the bench of the supreme court, which this fact made it difficult to fill. The commission was tendered to Mr. Harrington, and it was accepted only because it could not, from the relations he sustained to the governor, be respectfully declined. Thus, at the early age of twenty-eight, he became the chief-justice of that court, which, when a boy, he had served as a deputy clerk. His reluctance to accept this appointment arose chiefly from considerations of youth and inexperience, in reference to an office in which, at that day, venerable age was considered indispensable to secure public confidence

and official respect. When he entered on its duties in Sussex county, in the trial of an intricate case, involving questions of state jurisdiction, the leading member of the bar there, and of the party opposed to the administration, who had denounced his appointment as an experiment on public forbearance, sat as a spectator; and at the close of the case declared that his prejudices were removed, and proffered his confidence and support to the new head of the court. He kept his word. Years of intimate association afterwards matured a friendship between them, which ended only with Judge Robinson's life; and in the course of which the young judge received abundant evidence of the veteran lawyer's professional respect.

The new constitution united the two common-law courts into one Superior Court; the bench of which was filled by the appointment of the venerable president of the late Court of Common Pleas, as chief-justice; and James R. Black, Peter Robinson, and Samuel M. Harrington, as associates. During twenty years' service in that court, which is so constituted that each of its members is often obliged to discharge all the duties that can devolve upon any, the numerous published opinions of Judge Harrington give ample evidence of industry and judicial ability. They are spread through four volumes of reports, which he has published by command of the legislature, and which have placed the jurisprudence of Delaware on the same commanding eminence to which its distinguished statesmen have elevated its political standard. Drawing their principles from the pure fountains of the common law, qualified by a cautious and judicious recognition of doctrines of more recent origin, the decisions of the Superior Court of Delaware are everywhere cited with respect and authority. In these reports, the cases are well selected and concisely stated, and the judgments are announced with clearness of reasoning, aptness of illustration, and depth of research. Among them, the recorded opinions pronounced by Judge Harrington bear a full proportion; and, in respect to their ability, it is quite conclusive to say, that they are worthily classed with those of his distinguished associates, Chancellor Johns, the two Claytons, Bayard, Booth, Black, Robinson, Layton, Hazzard, Milligan and Wootten. We are indebted to the Hon. John M. Clayton for the following analysis of Judge Harrington's official character; extracted, by permission, from a letter addressed to a gentleman in Wilmington, dated Nov. 2, 1851:

"Samuel M. Harrington is one of those men who would have been distinguished in any profession he might have adopted. But he has confined himself chiefly to the studies of the jurist, and has discharged, for more than twenty years, with signal ability, the duties of a judge, for which his talents, temper, integrity, and industrious and moral habits, have pre-eminently qualified him. He has the true judicial and legal mind, is quick of apprehension, laborious in research, learned in his profession, patient in hearing, discriminating, cautious, mild and conciliatory in his hearing, but firm and always sufficiently prompt to decide. He has made the business of the judge the chief (I had almost said the sole) business of his life. Devoted to his judicial duties, no man ever had cause to complain of any neglect, or delay, on his part, in the discharge of them. I have never known any one to combine in himself

more of the many high qualities essential to the character of a good judge, than this gentleman. As he was one of my associates while I held the office of chief-justice of this state, I had the best opportunity of forming a correct estimate of his intellect, and, indeed, of his whole character; and it has been to me a subject of great regret that so much laborious public service, most ably, as well as honestly, performed, and that, too, by one whose merit is so generally acknowledged, should have been so poorly compensated by the state. After I left the bench, Mr. Harrington would have been appointed chief-justice of the state, had he not refused to accept that office." His reasons for declining this honor are characteristic. "I can gain nothing (he said) by the change of position but the honor, and the state may lose the services of a better man. Whatever ability I may have to render service, will be exerted, as it has been, in my present office, with the duties of which I have become familiar; and there is no reason, either public or private, to make the change desirable."

Mr. Harrington has written and compiled much. Living at the seat of legislation, many of the statute laws of his state have received the impress of his hand. In 1849, he was placed at the head of a commission, in connection with Joseph P. Comegys and Daniel M. Bates, distinguished members of the Delaware bar, to revise the public laws of the state, "with a general discretion to omit such existing provisions as they should consider unnecessary, and to vary existing provisions whenever they might think a variance suitable to render the general system consistent, or more perspicuous, or better adapted to circumstances." In two years the commission discharged this laborious and responsible duty. Their report, comprising the whole body of public statute law, entirely re-written, with remarks on the several chapters, was made to the legislature, in 1851; and the revised code was passed at a special session, held for the purpose, in 1852. The commissioners received, by unanimous vote of both houses, the thanks of the general assembly "for the fidelity and ability with which they have performed that duty."

Mr. Harrington occupies other important relations to society, but this memoir concerns chiefly his public and official character. We may add, that he is a member of the Methodist Episcopal branch of the Christian Church; and that he married, at the age of 33, Mary, the daughter of Purnel Lofland, Esq., of Milford.

HON. SAMUEL PRENTISS,

DISTRICT JUDGE OF THE UNITED STATES FOR VERMONT.

Greatness in character rarely strikes one at the first sight. It takes time to perceive it, and it requires time also to unfold and to stamp it. Truth is the residuum of time. It is not always those who stand most prominently in the present, that will appear most eminent to a future generation. It often happens, on the other hand, that the quiet, unostentatious, and almost unnoticed man among his cotemporaries, will appear, when surveyed from some stand-point in the future, to be of

fair and in excellent proportions. And the name that is little thought of by us, may be most regarded by those whom present interests, passions, friendships, and animosities affect not at all. The subject of this present notice, though he may not have occupied that share of public attention which has often been given to men of less merit and virtue, may yet live in history, and be remembered as one among the few names in the records of a state, which was chiefly honored in having them for her sons.

Samuel Prentiss was born in Stonington, Connecticut, March 31, 1782. He was the son of Dr. Samuel and Mrs. Lucretia H. Prentiss. His grandfather was Col. Samuel Prentiss, of Stonington. In 1783, his father removed to Worcester, Mass., and from thence, in 1786, to Northfield, in the same state. There, after having attained considerable eminence as a physician and surgeon, he died in 1818.

From an early age, Mr. Prentiss was a pupil in the common schools, and the entire course of his pupilage was one of diligence and success. When he left the schools, he was placed under the private instruction of the Rev. Samuel C. Allen, the minister of Northfield. Under his tuition, he pursued the usual course of classical studies, then taught in our higher literary institutions. After he had finished his youthful and preparatory studies, he entered the office of Solomon Vose, Esq., of Northfield, Mass., as a law student. He completed his course of law reading in the office of John W. Blake, Esq., in Brattleboro', Vt. In December, 1802, he was admitted to the bar, but in consequence of not having reached his majority, did not enter into practice until some months later.

He commenced the business of his profession in Montpelier, Vt., in 1803. He was at once recognized as the possessor of intellectual talents of the first order. Faithful to the interests of his clients, perceiving at once the strong points in their cases, and having the rare faculty of presenting in a natural, logical and harmonious order and arrangement, the facts of a case, to the court and the jury, he soon took a high rank as a successful advocate and counselor. His business consequently increased, and became extensive and lucrative.

In the year 1804, he married Lucretia Houghton, eldest daughter of Mr. Edward Houghton, of Northfield, Mass., a lady of superior domestic accomplishments, of great energy, of rare kindness of heart and benevolence of life; and her distinguished husband would not hesitate to ascribe to her constant, secret and pervading influence, in all the relations of the family, in relieving him from domestic cares, and in assisting him by her sympathy in all his public duties, much of the success and honor which have attended his career.

As an advocate at the bar, Mr. Prentiss was confessedly superior to any other in the state. He was generally retained in the important cases, not only in his own county, but in the principal counties of the state. The more difficult and important the case, the more likely was he to appear in it as counsel for one of the parties. His manner and style of address, while not intended to captivate, was yet very attractive and popular. To please was not the end for which he spoke, though he always obtained that result. His enunciation was distinct, his language was the natural expression of his idea, and his arguments

were always solid, intellectual, precise and systematic. He invariably treated the court with deference, the bar and all others with courtesy, and in popular opinion and speech, was regarded and mentioned as a remarkably "handsome speaker," a sound thinker, and a close logical reasoner. But with all his duties as a legal practitioner, Mr. Prentiss was yet daily a most studious reader of law. He read not merely for particular cases, but to establish himself in the great and universal principles of legal science. He thus furnished his mind for his future career, and fitted himself to be a judge, while yet an attorney.

In 1822, Mr. Prentiss declined the office of associate judge of the Supreme Court of the state, which was tendered to him by the legislature. His reasons were, his feeble health and his unwillingness to relinquish a lucrative profession for the cares of an office, that beside the honor and responsibility, had little else to commend it to his acceptance. In 1824, the citizens of the town in which he resided, evinced their confidence in him by electing him their representative in the state legislature. The subsequent year, the honor was again conferred upon him. His course in the legislature was marked by such wisdom and judgment, that the General Assembly elected him to the office of first associate judge of the state court. As the former objections he had urged, were in part removed, and as the judiciary system of the state had been newly and more efficiently organized, he accepted the office and held it four years.

As judge of the state court, he secured the confidence and the respect of the bar. His eminent fitness for the office was confessed by all. His previous studies rendered him familiar with legal precedents and principles, and he found in this office employment for the gathered stores of years. Nor did his great knowledge and quick insight into the merits of a case, render him impatient in hearing evidence or the arguments of counsel. He was always courteous and forbearing, and elevated the dignity of the court by securing the profound regard and affection of the members of the bar. His decisions were statements of facts and of law, in the most clear and convincing form, and he had the rare art of so stating the facts, and applying the principles of law to them, that his decisions carried with them the most satisfactory arguments for their correctness. It was this art, so necessary to a judge, that rendered him so successful as an advocate. It was the power of clearly discriminating between facts and fictions, between things proved and things not proved, and of accurately and perfectly expressing in language his own preceptions, and of arranging and classifying his own ideas, in the most natural, simple and logical order, that eminently fitted him for the right and able discharge of the responsibilities of a judicial station. And having this power, added to extensive and profound legal knowledge, and combined with great conscientiousness, and with a lofty courteousness and kindness of manner, it is not strange that he should be both a sound and a popular jurist. Nor were his distinguished qualities as a judge without due appreciation. In consequence of his acknowledged ability, he was elected to the office of chief-justice in the same court, by the General Assembly, in 1829. In this position he increased his already high reputation, and gave a wide character to the judiciary of the state. In this capacity, his decisions have attracted attention

out of the state, and been noticed in other courts as of great legal weight and value. In 1830, Mr. Prentiss was summoned from this office, which he had so ably and gracefully sustained, to represent the state in the Senate of the United States.

His personal popularity, always known to be great, was made especially manifest by the favor and support he received from all parts of the state, particularly from his own county, both in and out of the legislature, each time he was a candidate for the national senate. But his popularity was never acquired by the sacrifice of personal independence, nor by stooping to the low acts of a popular leader or demagogue. The confidence reposed in him, and the attachment manifested for him, were founded upon qualities of intrinsic value and excellence. He took his seat in the Senate in 1831.

There may have been in the senate, when he became a member of that body, greater men, of more varied scholarship, and of more brilliant forensic powers than he possessed. But there were few in that chamber, replete as it then was with men of intelligence, and genius, and eloquence, and of profound judicial and legal attainments, who equaled Mr. Prentiss in the symmetry of his mind, in the union of the most varied excellences, in the harmonious blending of intellectual and moral powers, in the firmness of his principles, and in the fervor of unquestioned and intelligent patriotism. There were, perhaps, many who shone brighter by reason of a single great quality, but none who surpassed him in the serene combination of those faculties which constitute and render illustrious the character of a true statesman. Neither in the senate, nor elsewhere, was he ever marked for those splendid popular qualities which attract instant admiration, and with which some of his associates were gifted in the highest degree; but he possessed those peculiar powers which rendered him equal to any station, and would prove him to be a superior man, even in the highest position. No office would reflect more honor upon him than his character would reflect upon the office.

His course in the Senate was uniformly self-consistent, wise and conciliatory; holding to the views of the more moderate men at the North, with regard to our southern institutions, and once under the necessity of defending his own state and its resolutions from the aspersions of members from the South, he yet accomplished his duty in such a way as to win the esteem and confidence of his opponents, sustain the honor of his constituency, and preserve his own simplicity and integrity. Though compelled to enter into discussion upon the exciting topics of the day, and to advocate the power and the constitutional right of Congress to abolish the slave trade and slavery in the District of Columbia, and the right of petition, and the corresponding obligation to receive petitions from the people, and to resist, to the utmost of his strength, the projects for the annexation of Texas, he yet conducted himself in so courteous, dignified and lofty a manner, as invariably to conciliate the extremes from both sections of the country; to command the attention, and respect, and admiration, of all who listened to his speeches; to indicate the propriety and rectitude of his own course, and sustain his reputation for wisdom and sagacity.

While a member of the Senate, he was appointed on several of the

standing committees; such as the committee on the judiciary, the committee on public lands, and the committee on patents and the patent office.

As a member of the committee on the public lands, he advocated the bill for the distribution of the proceeds arising from the sale of the public domain among the several states. He considered that the compacts of cession under the Confederation guaranteed to the particular states their proportionate share in the proceeds of the public lands; and that the substitution of the present constitution and government in the place of the Confederation, did not impair the right of the states to the fund. He regarded the provisions of the constitution as confirming all the antecedent rights springing out of the compacts of cession; and argued that the public territory was a binding trust held by the government of the United States for the benefit of the particular states, "according to their respective proportions in the general charge and expenditure." Hence he opposed the project for donating the public lands to the states in which they were located, and urged the distribution of their proceeds as the only measure that was just and harmonious with the constitution. His speeches on this subject were marked by great clearness and force of argument, and discovered a power of stating and elucidating different propositions, that was not surpassed by any one in the Senate.

As a member of the committee on the judiciary, to whom the subject was referred, he reported a bill directing a new edition of the laws of the United States to be compiled and printed, and accompanied the bill with a written report, explaining at length its provisions, objects, and advantages. The bill was passed by the Senate, but no action was had upon it in the House. The utility of such a compilation of the laws has since become so apparent, that the executive, if our recollection does not fail us, has recently thought fit to call the attention of congress to it.

In the session of 1834–5, as well as in that of 1833–4, he was one of the select committee, of which Mr. Webster was chairman, to whom was referred the bill for the satisfaction of claims due American citizens for spoliations committed on their commerce prior to September 30, 1800. The bill was reported upon favorably by the committee, and, after long debate, it was passed by the Senate. Mr. Prentiss advocated the bill in a speech, presenting, in a plain and condensed view, the whole merits of the matter, and demonstrating, very fully and clearly, the equity and justice of the claims, and the obligation of the government to pay them. He argued, that the claims of the United States for indemnity from France, for spoliations on our commerce, were just—were so admitted by France, and were surrendered to that government as an equivalent for the correspondent release of the United States from certain important *national* obligations; and that, therefore, the government of the United States, having appropriated an indemnity due on account of spoliations committed on private property, as an offset to claims on the part of France, growing out of national obligations imposed upon the United States by treaties, was bound, according to the fundamental law of the land, as well as by the principles of national justice, to make compensation to the injured individuals. Such was the substance of his argument, and on such a basis he advocated

the measure as necessary to preserve inviolate the national honor and rectitude.

The nice sense of justice and honor which characterise Mr. Prentiss was exhibited also on another subject, somewhat similar in its nature. Seeing how much of the time of Congress was occupied in legislating upon private claims, the great delays and expense to which the claimants were subjected, and the injustice often done them, and in many instances, the government, by such legislation, Mr. Prentiss, in January, 1837, in order to correct the evil, obtained leave to bring in a bill to establish a board of commissioners, to hear and examine claims against the United States. This bill he introduced to the Senate at every subsequent session, so long as he remained in that body. It was passed by the Senate at three different sessions; but at neither was there any final action had upon it in the House of Representatives.

Mr. Prentiss is the author of the existing act of Congress against duelling in the District of Columbia. He drew up, introduced, and carried the bill through the Senate. The time chosen for its introduction, and the manner in which it was urged upon the attention of the Senate and of the country, were both equally appropriate and forcible. It was soon after the duel between Hon. William J. Graves, of Kentucky, and Hon. Jonathan Cilley, of New-Hampshire, both members of the House of Representatives. No one who heard Mr. Prentiss on this occasion, but had their respect raised to admiration for his strength of principle, perfection of argument, and calm but finished and subduing eloquence. On this bill he made three speeches: the first, upon introducing it; the second, in reply to objections; and the third, on the general merits of the bill. When we consider the event which was the immediate occasion of the bill, and the emotions which it caused throughout the circles at Washington, and through the entire country, we may estimate to some extent the effect which was produced when Mr. Prentiss, evidently influenced by no mere impulse of overwrought sensibility, but by permanent and enduring principles, that were only called into action by the occasion, rose in his place and proposed a bill designed to suppress duelling, by attaching to it an infamous penalty; and concluded his remarks, by calling upon "senators, grave and considerate senators, heads of families, fathers of the land, to interpose their authority and influence to stay a practice unsuited to an enlightened age, and revolting to the moral and religious feelings of the country; and invoked them, by their regard for those on whom the hopes of the country rest; by their regard to eternal and immutable principles of moral rectitude; by every consideration of justice and humanity; by the duty they owed to God and their country; to give aid and support to a measure, demanded by the moral sense of the nation; essential to personal security, and to the preservation of law, liberty and social order."

It was, however, in the speech on the general merits of the bill, that he evinced most fully both his intellectual power and the purity and elevation of his principles. His peroration was remarkably impressive and effective both in its style and idea; nor need we ever despair of the safety and glory of our Republic and its institutions, so long as such men shall stand in our public councils, and affirm that the high principles of justice must

never yield to the factious demands, however clamorous or importunate, of party policy or political expediency. The conclusion of that speech we cannot forbear to give, confident that it needs no other apology for its insertion here, than its intrinsic truth and beauty; than the high moral lessons it conveys. And we can almost see his tall person animated, and his eye kindling under the vigor and almost prophetic nature of his own sentiments; and hear his voice, ordinarily feeble, become clear and sonorous under the influence of the lofty ideas he is uttering, as he concludes:—"Sir, public men and the people everywhere, must cease to undervalue the worth of moral excellence and virtue, and learn to consider that the want of these cannot be compensated by genius however brilliant, by learning however extensive, nor by any advantages however fascinating and valuable in themselves, which either the bounty of nature, the power of industry, or the most accomplished education can bestow. In short, if we wish to maintain the free institutions of the country; if we wish to preserve purity in the government; if we wish to continue and perpetuate civil and political liberty; if we wish to uphold the character and honor of the country, and give it a name surpassing every name among the nations of the earth, we must remember and constantly act upon the great truth taught by infallible wisdom, *that it is righteousness which exalteth a nation, while sin is a reproach unto any people.* We must remember that it is an axiom founded in the soundest philosophy, and verified by all authentic history, that as vice and immorality in private life invariably destroy individual character and usefulness, whatever intellectual endowments may accompany them; so, if favored and tolerated in public life, and among public men, they will inevitably infect and corrupt the general mass of the community; induce criminal insubordination to the laws; undermine the conservative and sustaining principles of the social compact, and ultimately lead to national dishonor, degradation and ruin."

Mr. Prentiss was one of the two senators belonging to his party, who refused to sustain, and used all his influence against, the passage of the celebrated Bankrupt Act of 1840. In a speech, delivered in the Senate, in a general argument against the merits of the bill, he showed profound acquaintance with the English system of common and statute law, and a comprehensive sagacity with respect to the results of the measure, should it be carried into operation. His speech on this occasion was said by Mr. Calhoun to have been the clearest and most unanswerable argument to which the latter had listened for many years, on any debateable question. While confident that the provisions of the bill were unjust and likely to work mischief, "kindness to the few and cruelty to the many," he yet rested his objections to it, principally upon its moral tendencies and influences. He considered it as aiming a direct blow at the indefeasible rights of property, which lie at the foundation of the social system, and tending to induce fraud and dishonesty in the community. In his view it seemed to legalize the breaking of contracts, and destroy individual and public credit. A short experience of the law disclosed his wisdom, and the soundness of his arguments verified his declarations. It grew out of a false and

one-sided philanthropy, that overlooked moral distinctions and personal rights, and consequently had soon to be repealed.

Mr. Prentiss, having honored himself and his state for two successive terms of six years in the United States Senate, was nominated by the President to the office of judge of the District Court of the United States, for Vermont. The nomination was sent to the Senate on the 8th of April, 1842, and on the same day, immediately on its being received, the Senate went into executive session, and without the usual reference of the subject to a committee, confirmed the nomination by a resolution declaring that they "*unanimously*" advised and consented to the appointment. This circumstance attending his appointment was gratifying as it was unusual, and showed the impression that the character and abilities of Mr. Prentiss had made upon his associates. His resignation was communicated to the Senate three days subsequently to the nomination and appointment. The sentiments which were freely expressed on the floor of that body, when his letter of resignation was read, are those with which he has equally inspired all who have known him. It is said that senators of all parties vied with each other in expressing their opinions of his eminent fitness for the office, and their regrets that a man so pure and firm; of so much soundness of mind and views; of so much and such rare delicacy of conscientiousness; a man as necessary to the Senate, as he would be useful on the bench, was to be removed from among them. The tone of the public journals, on his retiring from the Senate, was equally complimentary and just, and even party animosity never ventured to impugn the appointment.

Judge Prentiss took his seat upon the bench of the District Court in May, 1842. This position he has occupied for ten years, and has discharged its functions with signal propriety and ability. Several of his decisions in important cases have been published, in connection with the reports of the state Supreme Court; and some have been republished in the Law Reporter, and also in the New-York Legal Observer. The decisions in the cases referred to, display great clearness, discrimination and depth of thought. They are learned and valuable, and show great legal knowledge and acumen, and entitle him to a high rank among the jurists of our country, and to a high fame in the history of its jurisprudence. The intellectual and moral qualities, and the legal attainments of Judge Prentiss, eminently fit him for the highest judicial station. Calm, reflective, discriminating, upright; of quick and delicate sensibilities; of rare knowledge of men and motives; mild and considerate; profoundly attached to law, and yet, never using its forms and technicalities to prevent or pervert justice; conscious that the letter killeth and the spirit giveth life; and that equity and right are the end of law; he unites, in fine proportion, those seemingly opposite qualities, of rectitude and charity, of justice and forbearance, of inflexible principle and humane emotions, whose perfect combination can alone qualify a *man* to be a judge among his fellows. And such is his acknowledged fairness and justice, that even his neighbors, who are most opposed to his general political opinions, would never dare to impugn his impartiality. Said a neighbor of the judge to the writer, after a somewhat warm discussion on the recent Fugitive Slave Bill, "If I were a fugitive, I should not wish to be tried by Judge Prentiss."

"But if you were falsely charged with being a fugitive," said the writer; "Then," he replied quickly, "I should not fear to trust my case in his hands."

The discipline to which Judge Prentiss subjected himself from the commencement of his practice at the bar, the character of his studies, and the manner and objects with which he pursued them, would all indicate that he would be able to discharge the public duties of his office to universal acceptance. And such has been the case; and such and so high is the reputation he has attained in the office which he at present occupies, that he has been frequently and publicly mentioned as a competent person for a seat on the bench of the Supreme Court of the United States. In two instances, when there has been a vacancy on that bench, many of his friends have strongly urged him to consent that his name might be presented for the nomination; but in both instances he resisted the solicitation of his friends, and exerted his influence for another gentleman. He was advanced in years, and already worn with toil in the public service, and desired to pass the rest of his life in repose and quiet. The honors and emolument of such an office were not deemed an equivalent for its wearing and exhausting labors. The duties of his present office are not so onerous but that he can discharge them with great facility, and the performance of them furnishes an agreeable and healthful excitement to his mind.

Judge Prentiss has always taken a warm interest in the judicial institutions of his adopted state. While at the bar, he was earnest and active in favor of every useful improvement in the judiciary system, which, as then existing, was essentially defective. And when a member of the legislature, in 1824, he proposed and urged, in concurrence with the other members of the Judiciary Committee, the act which was then passed, providing for an entire reorganization of the courts. In 1825, in the same position, he succeeded in defeating an attempt made to repeal it. The new system then went into operation, and has continued in existence, commanding almost universal approbation and support, down to the present day. And he is still watchful of every movement calculated to disturb or impair the judicial institutions and character of the state. He has opposed, at every step, the encroachments of those popular influences and measures, which, by submitting the election of judicial officers directly to the people, renders less certain and uniform the administration of justice, strips the judiciary of its sanctity, and opens it to the inroads of political excitement and party animosity.

The tendency of the duties and studies of a high judicial station is to purify, and elevate, and strengthen the moral sense; and to inspire respect and reverence for those immutable moral principles, which are essential to the welfare of man and the peace of society. That tendency has been fully developed in Judge Prentiss. Purity of life, in every relation, is of prime importance in the character of a public man. Without it, genius, learning, wit, eloquence and cultivation, are worse than in vain. They add only to the length of the lever by which vice dissolves the fabric of individual character and social welfare. And we conceive it to be the highest eulogium we can bestow upon Mr. Prentiss, to say that he is a pure man and a pure judge.

A republican, he dislikes ultra-democracy, and reveres the constitu-

tion, and loves the union of states whose permanence it guarantees. A patriot and a statesman, he has no ambitious hopes for the nation; no desires for its territorial extension and aggrandizement; no dreams that it is the heaven-commissioned apostle of liberty and democracy to the other nations of the earth. He knows that "patriotism is a necessary link in the golden chain of human affections and virtues;" and turns away with indignant scorn from that false philosophy or mistaken religion which would persuade him that cosmopolitism is nobler than nationality; that philanthrophy is greater than patriotism; and the human race a sublimer object of love than his own country and his own people. The history of the past, which he reverences, not so much for what it is in itself, as for the lessons that it teaches to the present, leads him to expect, that should our own country ever become the propagandist of liberty among the nations, or seek to become the centre of light and freedom to all mankind, it would soon lose its independence and nationality.

Judge Prentiss is still living in Montpelier, Vt. His life is quiet, simple, unostentatious—he has the respect and confidence of the community—he is a member, with his wife, of the Congregational Church in that place. To the profession of Christianity, he adds a hearty faith in its doctrines, and a cheering hope in its promises. That hope is more satisfying to his mind than any expectation of posthumous fame; than any certainty that his name will be held in fragrant remembrance, so long as the people of the state and land shall be taught to revere "whatsoever things are true, and just, and honorable, and lovely, and of good report."

HON. PLINY MERRICK,

OF MASSACHUSETTS.

Mr. Merrick is a descendant from a family of English emigrants, who came to this country soon after the landing of the Pilgrims at Plymouth. His ancestor, Thomas Merrick, arrived here about the year 1630; and was one of the first settlers of the town of Springfield, on the Connecticut river, where he is known to have resided in 1636, and until his death, nearly fifty years afterwards. His descendants are numerous and respectable. Many of them still dwell in the valley of the Connecticut, near the location he selected for his residence, while others have found homes in different and distant states of the Union.

The father of Mr. Merrick was a member of the legal profession. He established himself at Brookfield, a pleasant village, situate nearly midway between Springfield and Boston, in the midst of a prosperous agricultural community. He was a good lawyer; but his personal integrity, more than his professional ability, gave him title to the respect he possessed. He died before his son had completed his collegiate education.

Mr. Merrick was born in Brookfield, in 1794, and was graduated at Harvard University, in 1814. He maintained there a good reputation for talents and scholarship, in a class of which Professor Walker, of

Cambridge, William H. Prescott, the historian, and others, well known in their respective avocations, were members. Immediately after leaving college, he entered the office of Gov. Levi Lincoln, of Worcester, one of the most distinguished of the lawyers of Massachusetts, as a student, and continued under his tuition until his admission to the courts as an attorney, in 1817. His subsequent life has been given almost exclusively to his profession.

He brought to the bar qualities which, sooner or later, are sure to command success. A quick, clear, vigorous mind, well trained and enlarged by liberal culture—generous and manly aims—graceful and winning manners—a love of justice and a thorough detestation of every species of craft, low cunning, and fraud, could not fail to be ultimately appreciated and rewarded by an intelligent community.

He commenced his professional practice in Worcester, under the pressure of a considerable indebtedness, which had been incurred in the expenses of his education, and from which it cost him the struggle of several years to extricate himself. But he never despaired, and was never unmindful that it was one of the first of his duties to discharge the pecuniary obligations he was under to those whose kindness had afforded him assistance. Anxious to make this return, but not meeting with the immediate encouragement at Worcester, which would enable him to effect it so early as he desired, he removed, in the hope of improving his condition, to the county of Bristol. He remained there until 1824, being a part of the intermediate time a law partner of Gov. Marcus Morton. He then returned to Worcester, where he has ever since resided.

During the early part of his professional life, his business was inconsiderable, and his prospects were apparently unpromising. But though he felt some solicitude for the future, he never gave way to idle despondency, nor once thought of being diverted from the course he had resolved to pursue. He had leisure for study, for observation, and for the acquisition of practical knowledge, and he used it with a wise forecast. In these years of apparent failure he laid the foundation for a higher and wider success than that which results in mere accumulation of gain and profit. While diligently seeking to make himself acquainted with the science of the law, he did not neglect more graceful and generous studies, nor in the seclusion of study did he forget to qualify himself for a life of activity and business, by obtaining a practical knowledge of men and the affairs of society.

Very early after his return to Worcester a great change occurred in his circumstances, and happier prospects opened to his exertions. His retainers were increased, his engagements multiplied; and his rise from that period was marked and rapid. He entered then into the higher walks of his profession as a counselor and advocate. He had now ample use for all the materials which his previous diligence had collected; and, almost at once, he advanced into an extensive and varied practice; limited, in fact, only by his capacity of labor and power of endurance. It frequently occurred that he was employed as senior counsel in every cause that was tried at the terms of the courts in the county of Worcester. He was retained also in important causes in other parts of the commonwealth, and occasionally also in the neigh-

boring states of New-Hampshire, Vermont, and Rhode Island. His habits of business had become thoroughly regulated—his perceptions were rapid, and his application close, constant, and unremitting. It was by these means that he was enabled to bring the multifarious engagements in which he was employed to a prosperous issue. He derived no advantage from any system of division of labor, for in professional practice, in the interior counties of Massachusetts, no such division was known. The advocate was there required not only to be familiar with the principles of law in its various departments, but to be capable also of adapting himself to the management of the minutest details of proceeding in the courts, and in the preliminary preparation for trial. To meet every exigency, without faltering or hesitation; to do all that is rapidly and continually falling upon his hands, with consummate tact and ability; and, to add to the work the charm of eloquence and the finish which liberal studies alone can impart, demands no trifling measure of original power, invigorated by the acquisitions of untiring industry.

Such vigor of application and such constancy of employment produced their inevitable consequences. Mr. Merrick relieved himself from all pecuniary embarrassment, and succeeded to a position, not indeed of affluence, but of ease, of competency, and independence; and what to a generous mind is of still higher gratification, he found himself surrounded by friends, and sustained by the confidence of the public, alike in his personal and professional character.

While in full private practice, he was appointed attorney for the commonwealth in one of the four districts into which it was divided. He retained the office, by successive appointments, until he was transferred to the bench. Firm, but courteous and humane, intimately conversant with the criminal law, and accustomed to great exactness in the conduct of all his affairs, he made an admirable prosecuting officer. While he forbore no labor and spared no pains to fix upon the guilty the legal penalties of transgression, he was never known to press for a conviction merely because an accusation had been made, or an indictment presented. His labors in this department of the government, so essential to the welfare of the state and the security of its citizens, was rewarded by their constant and warmest approbation.

In 1843, Mr. Merrick was placed upon the bench of the Court of Common Pleas, which in Massachusetts is invested with an extended civil and criminal jurisdiction; and which has been adorned by some of her best jurists. In accepting a judicial office, he assumed the discharge of duties in which the eminent advocate is by no means always successful. But he was not of the number who fail; he soon increased the reputation he had acquired at the bar. He carried to the bench the manners of a gentleman, and presided in his court not only with dignity, but with urbanity and kindness. His clear and discriminating mind, his ready perception of the true issues to be investigated, his quick analysis, and his happy faculty of laying every thing clearly and plainly before the jury, enabled him to execute his office acceptably, and very early established a high judicial reputation.

In the autumn of 1848, he was urgently solicited to come to the rescue of an enterprise, thought to be of great importance to the city of

Worcester, which had been commenced, but was then laboring under the severest depression and embarassment. He yielded, somewhat reluctantly, to that solicitation; and resigning his judicial office, was chosen President of the Worcester and Nashua Rail-road Company. To the new species of labor to which he was thus called, he applied himself with vigor, and evinced in it sound discretion and great practical intelligence. His energy, perseverance, and personal influence, overcame all obstacles in its way. He carried forward the work of the corporation, till their road was done, their buildings completed, and their cars running on the track; and he then chose to withdraw from the company, and leave their operations to be conducted by those who had a more direct and immediate interest in its prosperity.

But though he was thus temporarily diverted from his own appropriate avocations, he was unwilling long to be absent from those pursuits to which it had been his constant purpose to devote his life. Having brought the enterprise in which he had been engaged to a prosperous termination, he turned again, with undiminished zeal and unabated power, to his chosen profession. His services were promptly sought for in the circle of his former labors, with eagerness and avidity, and he was renewing a full career of employment in the courts, when a vacancy occurred upon the bench he had left. The seat was tendered to him by Gov. Briggs, and was accepted; being the only instance in Massachusetts in which an individual has been re-appointed to a judicial office from which he had once voluntarily retired. This second appointment was the more honorable to him, as it was conferred by a chief magistrate to whom, politically, as the representative of the predominant party in the state, he had been long and constantly opposed.

Judge Merrick has been seen but little in political life. The democratic party, with which he is associated, have not often secured the ascendency in Massachusetts; and it has not therefore been in its power to confer distinction upon its members by party patronage. But he has enjoyed the confidence of his political friends, who have accorded to him such manifestations of respect and attachment as a minority can bestow. He has often been their candidate for places of trust and posts of honor and responsibility; and under their nomination he was elected, in 1849, to the Senate of the Commonwealth. As one of the most prominent members of the party, he occupied an important position in the legislature, and exercised an effective and salutary influence over the proceedings of the body to which he belonged. Had he been continued in that sphere of action, valuable results might have been anticipated from his wide experience and judicious counsels; but before the occurrence of another session of the legislature, he was again in judicial office under his second appointment.

It is in his professional character, as an advocate and as a judge, that he is chiefly known, and will be hereafter remembered. As an advocate, he was eminently successful; yet it was against no feeble minds that he achieved his distinction at the bar. Better lawyers are seldom seen in our courts than John Davis, now a senator in Congress from Massachusetts; and Samuel Hoar, of Concord, whose solid learning and inexhaustible ingenuity are themes of praise wherever he is

known. It was with such men that he had to contend, and he proved himself equal to the contest. Always buoyant and indefatigable, he never failed to be ready at the commencement of the race, nor exhibited fatigue till he had reached its close. One must have heard his addresses to a jury, fully to have understood his merits as a jury lawyer. His approaches to them were in the gentlest terms, and he secured a lodgment in their hearts before he began his appeal to their understanding. His manner was easy and graceful; fluent in his delivery, his voice was clear, rich in its tones, and admirably modulated. He had a singular felicity in the command of language; copious without redundancy, the right word always fell in the right place. He saw distinctly the point in issue which he was to reach, and he went directly to it. In grouping facts, seemingly remote aad disconnected, and in bringing them to bear with combined effect upon the designed end, his talent and ingenuity sometimes seemed wonderfully great. He reasoned with the caution and closeness of a logician. But his powers of persuasion surpassed even his force of argument; and his eloquent and touching appeals to the hearts of his hearers, revived in his own county the memory of Francis Blake—a brilliant genius of an earlier day, of whose superior merits too little is remembered, and of whose productions too few have survived him to ensure the durability of the fame he deserved.

Judge Merrick has been of counsel in many causes which will have a lasting remembrance. But of his forensic efforts few were ever reported, and no written trace remains of arguments which, in the hour of their delivery, held listening audiences in admiring attention. Of the inconsiderable number of those which have been preserved, allusion may be made to his defence of Professor Webster. The report of his argument on that occasion, contained in the full and accurate report of the trial published by George Bemis, Esq., one of the counsel for the government, fully sustains the opinion expressed of it by those who were present at its delivery. No criminal trial has occurred in the United States which attracted such universal attention, or excited so intense and painful an interest. Nor was there ever one in which counsel for the accused discharged their duty under a pressure so severe and terrible. It is impossible for those at a distance from the scene to appreciate its force. They who were spectators, who carefully watched the whole proceedings, and who felt as well as saw the fatal character of the evidence growing hourly in irresistible conclusiveness, witnessed also the devoted ability and skill with which it was met and contested. They, and among them, were some of the most distinguished and discriminating citizens of the commonwealth, bore the strongest testimony to the vigor and ingenuity with which the prosecution was resisted; and gave assurances, in various ways, to Judge Merrick, that his closing address to the jury was, under the distressing and overwhelming circumstances against which he had to contend, one of the ablest and most eloquent arguments ever heard in the courts of Massachusetts.

The life of Judge Merrick, as an advocate merely, is undoubtedly finished. He is now upon the bench under his second appointment, enjoying the confidence of all parties, and the cordial esteem and re-

spect of the bar. By those who are the more immediate witnesses of his course in that responsible station, a gratifying testimonial has been recently tendered to him; and the hope emphatically expressed, that his life and health may be preserved, and the public permitted, for many years, to enjoy the benefit of his judicial labors.

ISAAC W. HAYNE,

OF SOUTH CAROLINA,

Whose likeness we present, from an excellent daguerreotype, and a brief memoir of whom we append, is the present Attorney-General of that state.

He was born in the year 1809, in York district, in the upper part of South Carolina. His ancestry, both paternal and maternal, occupy distinguished places in the revolutionary history of the Carolinas. His father, Wm. Edward Hayne, was a son of Col. Isaac Hayne, the patriot martyr, who sealed with his blood his devotion to the principles of liberty. His mother was a daughter of Capt. Alexander Brevard, of Lincoln county, North Carolina—one of seven gallant brothers who held commissions in the Whig ranks during the war of the Revolution. The eldest of these was Dr. Ephraim Brevard, the author of the celebrated "Mecklenburg Declaration of Independence;" and the youngest of them, the late Judge Brevard, of South Carolina.

Since the period of the Revolution South Carolina, (with, perhaps, the single exception of Mr. Calhoun, her late "*pre-eminent* senator," as he has been not unaptly called,) has had no son more cherished while living, or more mourned in death, than another of the Hayne family, who in early life filled the same distinguished post with the subject of this sketch. We allude to the Hon. Robert Y. Hayne, the eloquent opponent of Mr. Webster, in the memorable constitutional debate, in the United States Senate, in 1830; a gentleman, who combined in himself the practical, the brilliant, and the endearing, in a degree which seldom falls to the lot of a single individual. The name is deservedly popular in South Carolina.

When Mr. Isaac Hayne was quite young, he removed, with his father, to Columbia, where he received his education. While in the South Carolina College, at that place, a tribute was paid to his scholarship and character, in his election to the office of tutor before he had graduated, and when but eighteen years of age; and never did tutor have a more agreeable time with the usually unruly youth of that institution. His amiability, together with his very decided personal character, secured universal respect as well as affection, notwithstanding his youth, and, indeed, perhaps, the more on account of his youth.

In 1831, Mr. Hayne became the editor of a political newspaper, published in Columbia; entering with unbounded enthusiasm into the excited politics of the period, and applying himself, with untiring assiduity, to the advocacy of the extreme doctrines of State Rights, at

that time proposed to be enforced by the state. In this year also he was admitted to the bar.

In 1832, he removed to Beaufort district, and was in that year unanimously elected clerk of the celebrated NULLIFICATION CONVENTION, and after the passing of the Ordinance of Nullification, became private secretary to his distinguished relative, Governor Hayne.

This early initiation into active political life, at a time when there existed a political intensity far greater than had ever been exhibited before, or elsewhere, in the United States, imbued Mr. Hayne with that deep and abiding interest in the destiny of the South, which even his strong will has found it difficult to harmonize with the severe requirements of professional duty; though political office he has thus far steadily eschewed, and has never held a seat in any deliberative body.

In the years 1835 and '36, cotton planting in Alabama and Mississippi was deemed to be a sure and rapid road to fortune. The credit system prevailed to an unhealthy extent, and great inducements were held out to men of energy and enterprise to embark in the business. It was not uncommon to find professional men in the older Southern states abandoning remunerating business, and embarking in this new pursuit, or investing the acquisitions of years of toil in negroes and cotton lands in the Southwest.

Col. Hayne, (as an appointment to the staff of Governor M'Duffie about this period, entitled his friends to call him,) then but lately married, and for the first time a father, was seized with this unprofessional mania, and removed to Alabama, where for two years he devoted himself exclusively to cotton planting. The business, however, was not of a nature to satisfy the cravings of so active an intellect, and he resumed the practice of the law, in Montgomery, Alabama, in 1838, and remained in that place in the enjoyment of a full and valuable practice until 1846.

In Montgomery, Col. Hayne was thrown into collision with lawyers of high ability. Few inland towns can furnish a roll of names superior in legal knowledge and skill as advocates, to that of which Montgomery justly boasts. Among them are, E. S. Dargan, (now chief-justice of the Supreme Court of Alabama,) George Goldthwaite, (a member of that court also,) John A. Campbell, (now of Mobile, Alabama,) Col. Thomas Williams, John E. Ellmore, Nathan Harris, and others of hardly less repute. At this bar, Col. Hayne acquired a solid reputation, not less as a strong thinker, a close and forcible reasoner, and an apt and discriminating lawyer, than as an earnest, skilful, and successful advocate.

In 1846, Col. Hayne, to the surprise and grief of his numerous friends in Alabama, determined to remove to Charleston, South Carolina. With his brethren of the bar he was deservedly a favorite, as well from his marked fairness, frankness, and courtesy, in the conduct of business, as from his eminently social qualities.

The move was a bold and trying one. At the head of the Charleston bar were such veterans in reputation and in practice, as James L. Petigru, B. F. Hunt, C. G. Memminger, Henry Bailey, the then attorney-general, and Richard Yeadon, with many younger men of decided ability and accomplishments.

The field of exertion, too, was new and untried to one trained in the inland courts of Alabama. There, besides the fact that it is a *new* state, the great body of the common law may be said to be almost entirely overlaid by statutes, upon the construction of which very much of the litigation turns; while in the long-settled state of South Carolina the common law exists, with less change, probably, than in any state in the Union, and the bulk of her statute law is older than the Revolution. The experience, therefore, of Mr. Hayne in Alabama, except from the discipline it afforded, availed him little in South Carolina in the construction of wills, and deeds of marriage settlement, and the elucidation of questions of "executory devises," "contingent remainders," and "limitations over;" to say nothing of cases of "water vent" on rice plantations, and cases of "admiralty" and "insurance."

Having formed a connection with a legal firm, of considerable practice, in Charleston, he was at once thrown forward, and brought into conflict with the highest ability and learning at the bar; a conflict in which subsequent results show that he has fully sustained himself.

In the third year after Mr. Hayne's removal to Charleston, the astute and learned Henry Bailey, who had so long filled the office of attorney-general of South Carolina with signal ability, declined to be a candidate for re-election, and, in December, 1848, Mr. Hayne was elected by the general assembly to this high and responsible position.

In South Carolina, the judiciary, in all its departments, is still looked upon as a branch of the government of the highest dignity and responsibility; consequently, both by *tenure* and *salary*, its officers are made independent; and they are generally men of the first order of talents, and of the greatest personal worth. The offices of law judge and chancellor are, in terms, "*dum bene se gessere*," and that of the attorney-general, though for a term of *four years*, is practically so, as it has been hitherto held, without opposition, at the period of re-election.

The attorneys-general of South Carolina, from the period of the Revolution, have been as follows: John Julius Pringle, Langdon Cheves, John S. Richardson, Robert Y. Hayne, James L. Petigru, Hugh S. Legare, R. Barnwell Rhett, Henry Bailey, Isaac W. Hayne. Few offices in the gift of the people, or of the general assembly of any state—probably not one—can present, in their list of men who have filled them, such an array of names, alike distinguished for general and professional reputation.

Mr. Hayne's mental characteristics are quick perception, acute discrimination, strong natural logic, and sound judgment. His mode of expression is earnest and forcible, but unadorned. His manner is self-possessed, and though rarely impassioned, is strikingly earnest.

Some of the public efforts of Mr. Hayne, upon general and political subjects, have been considered as possessed of great rhetorical beauty and a high order of eloquence, but his forensic speeches, for the most part, are business-like, direct, and purely argumentative; and it is very rarely that he addresses either the fancy or the feelings of judge or jury. We think that we must add, that he is more remarkable for the quickness with which he acquires, and the ingenuity and power with which he applies, the learning appropriate to the case in hand, than for depth of general research, or comprehensive legal lore.

Mr. Hayne may be considered as but mid-way in his career in the law, and as having before him many years of increased professional usefulness and distinction. He is blessed with vigorous health, and the claims of a very large and interesting family will probably counteract the allurement of politics, and confine him to the less attractive, though certainly not less honorable path of professional pursuits. We nevertheless fear, however, that he will scarce form an exception to Mr. Webster's epitome of the lives of distinguished lawyers in America, which, says Mr. Webster, may be expressed in eight words, "*they work hard, live well, and die poor.*" We do not think, with JUNIUS, however, that "a man must be rich to be happy, or even honest." The subject of this memoir, to all who know him personally, presents a living example to the contrary. We believe that there are few men *happier*, and know that there can be none more *honest.*

HON. ARCHIBALD WILLIAMS,

OF QUINCY, ILLINOIS.

THE subject of the present sketch is one of those men whose talents and acquirements, no less than the integrity and virtue of his character, entitle him to a wider fame than he has hitherto attained. While for many years he has stood without a superior, as a statesman and a jurist, in the estimation of the people of his own state, he is comparatively unknown to the public beyond its limits. His political opinions, placing him in opposition to the dominant party in the state, have always excluded him from the field of national politics; and his remoteness from the great theatres of forensic display, has equally deprived him of opportunities for gaining the professional distinction which is so justly his due.

Archibald Williams was born in Montgomery county, Kentucky, on the 10th day of June, 1801, of a family neither rich nor distinguished, but holding a respectable place in the good opinion of their friends and neighbors. The personal worth of his parents is attested by the excellent moral training which they bestowed upon a large family of sons and daughters. Beyond this, and the first rudiments of education which a country school afforded, they had nothing to give their children; and, with this preparation for the battle of life, Mr. Williams, at a very early age, left the shelter of the paternal roof to take his part in the struggle.

For several years, at first by manual labor, and afterwards by teaching school, he supported himself, devoting all his leisure hours to his own cultivation and improvement. His inclination led him to solid reading, and especially to the study of the law, as the profession of his future life. A capacity for patient and persevering labor, which few possess in the same degree, enabled him to overcome all obstacles, and he was admitted to the bar in Tennessee, in 1828.

In 1829 he removed to Illinois, and settled at Quincy, on the Mississippi. Now it is a flourishing city. Then it was an obscure village, just struggling into life, on the verge of the white settlements in that fertile region, between the Illinois and Mississippi rivers. "The

Bounty Land Tract," as it is often called, soon became one of the great centres of attraction to emigrants: the El Dorado of the day, as the Scioto and the Wabash valleys had been before it; and as Iowa, Oregon, and California have been since. Its population was multiplied, and its resources developed, with a rapidity unexampled elsewhere than in America. Mr. Williams was not long in acquiring the esteem and regard of the early settlers; and, with the growth of the country, his acquaintance became daily more extended, and his reputation constantly increased. In the course of six or eight years, his services at the bar and in the state senate had already ranked him, by common consent, among the ablest men in the state.

Mr. Williams was three times elected to the legislature, serving one term in the senate, and two terms in the lower house. He was also a member of the convention of 1847, which framed the present constitution of the state. In the discharge of these public trusts, his ability and zeal for the public good won for him the respect and confidence, no less of his political opponents, than of his associates. By the latter, he was twice complimented with their vote for the Senate of the United States.

His professional reputation is high, and securely established. Controversies about land titles, which, perhaps more than all others, task the learning and acuteness of the lawyer, have not been wanting in the Western states. And, although the admirable system adopted for the survey and sale of the public lands has cut off much of the litigation which grew out of conflicting surveys in the older states, yet other sources of difficulty, scarcely less fruitful, have been opened in the early legislation of Illinois. Of these, the most prominent are the laws for the sale of delinquent lands for taxes, and the statutes of limitation, commonly called the occupying claimant laws. The construction and application of these statutes have developed a variety of questions, which demanded research and skill for their solution; among them, some of the highest importance, springing out of the state and federal constitutions, and the fundamental principles of the common law. It is not too much to say, that Mr. Williams's share in the argument of these questions, and the originality, vigor, and breadth of his views, have commanded the admiration of his cotemporaries, and identified him with the history of the jurisprudence of the state.

In the other branches of the law, diversified in their own nature, and constantly adapting themselves to the new interests and wants of society, he has maintained an equal place. His mind is clear, logical, and remarkable for its power of penetrating through all that is superficial to the very bottom of the subject. While others are assailing battlement and tower, he works his way by sap and mine to the very corner stone of his adversary's position, and with one great effort hurls the whole fabric to the ground. He is thoroughly versed in what may be called the *geology* of law—the wide, deep, elementary principles of all jurisprudence—and especially in those of the common law of England, the basis of our own institutions. He possesses none of the graces of elocution, no brilliant fancies, no flowers of rhetoric; but, when roused by the importance of his subject, or animated by a cause which moves his own feelings, his earnestness and force swell into true eloquence, and sway the most unwilling minds into conviction.

Our present business with Mr. Williams is professional. This is not the occasion to speak, except incidentally, of his private character. But we may be pardoned for saying that, in the large circle of his relatives and friends, his distinction as a lawyer and a statesman forms the least of his claims to their reverence and affection.

He fills at present the office of United States attorney for the district of Illinois, to which he was appointed two or three years ago, and the duties of which he discharges with equal usefulness to the public, and honor to himself. One of his written opinions, touching certain public lands near Chicago, came officially under the review of the present attorney-general, about a year since, and was approved by that able and accomplished jurist, with a marked acknowledgment of its ability and completeness.

HON. HIRAM WARNER,

OF GEORGIA.

Hiram Warner was born in Hampshire county, Massachusetts, on the 29th day of October, 1802. After receiving a good English, and a tolerable good classical, education, he emigrated to the State of Georgia, in the year 1819, being then about seventeen years of age. The first three years after his arrival in Georgia, were spent in teaching school, in which employment he acquired that knowledge of the human mind which has enabled him, so successfully, to understand the motives and passions of men. During this period he employed all his spare time in reading Blackstone, and acquiring that knowledge of the legal profession to which he had determined to devote himself. In 1823, after a very creditable public examination, he was admitted to plead and practice in the several courts of law and equity in the state of his adoption. Sometime in the year 1824, he opened an office at Knoxville, Crawford county, then a wild frontier county, bordering upon the Creek nation of Indians. Here, in this new location, with very limited pecuniary resources, and almost an entire stranger, he commenced his professional career, amidst all the hardships and privations incident to a frontier life. By unremitting industry, energy and perseverance, he soon obtained the confidence of the people, and entered at once into a very respectable practice, and laid the foundation for his future professional distinction. In 1828 he was elected a representative to the state legislature, and continued a member of that body until 1831, when he declined a re-election, that he might devote his whole time to his profession. As a legislator, he was liberal and independent in his views, preserving the confidence of his political friends and the respect of his political opponents. In 1833 he was appointed, by the joint ballot of the legislature, judge of the superior courts of the Coneta circuit, at that time the highest judicial tribunal known to the constitution and laws of the state. In 1836 he was re-appointed to the same office, which he held until 1840, a period of seven years. The people of the circuit over which he presided bore ample testimony of

the ability, fidelity and independence with which he executed the laws of the land. While on the circuit bench, Judge Warner was a rigid disciplinarian; always prompt in the discharge of all his official duties; and all parties having business in the courts, were required to be equally prompt, and the result was, that causes were never suffered to accumulate on the dockets during his administration. In the latter part of the year 1840, Judge Warner returned to the bar, and from that time until 1845, he was engaged in a large and lucrative practice, which enabled him to lay the foundation of a very handsome estate in the county of Meriwether, where he now resides. In December, 1845, the legislature organized the Supreme Court of Georgia for the correction of errors, and provided for the appointment of three judges to discharge the duties of that then difficult and responsible station. Joseph Henry Lumpkin, Hiram Warner and Eugenius A. Nisbet were accordingly appointed, by the joint ballot of both branches of the legislature, judges of the Supreme Court. Judge Warner was re-appointed for the term of six years by the legislature, in 1849, and is now one of the incumbents of the Supreme Court bench. Of his character as a man, a lawyer, and a judge, it will best become the future posthumous biographer to speak in detail, when all motives to exaggerate or disparage his true merits shall cease to exist. That posterity will do him ample justice, no one who is intimately acquainted with either his private or public character will entertain a doubt. Indeed, his history, for the last twenty-five years, has been closely identified with the history and prosperity of Georgia. To establish his ability and learning, as a jurist, the ten published volumes of the decisions of the Supreme Court undoubtedly furnish the highest and most satisfactory evidence. In regard to his private relations, to say that he is without enemies, would be to say that which is not true; for it is almost impossible for a man of his marked and decided character to be entirely without them in the rough contests of life, through which he has, necessarily, been compelled to pass; but it is believed they are comparatively few in number; and if he has never taken any extraordinary trouble to conciliate an enemy, it is quite certain that he never abandoned a friend.

Perhaps there is no man who has taken less pains to court public favor, by resorting to those artifices which are usually supposed to gain it; yet there are but few who have a stronger hold upon the confidence and affection of the people.

When at the bar, he was always a close and diligent student, preparing his cases with great care out of the court-house. The writer has often seen him, when on the circuit, toiling over the midnight lamp, arranging the legal points in his briefs, and condensing his authorities for the next day's arguments before the court, in which he was always short, rarely occupying more than an hour in the most complicated cases. He always argued the strong points in his case, and never wasted his strength upon weak and immaterial matters. Cautiously prudent in the formation of his judgment, as to the best method of conducting a cause; yet, when formed, he executed it with an energy and directness of purpose eminently calculated to insure success.

While on the bench, Judge Warner has never taken any active part in the political contests of the day, beyond a distinct expression of his opinions. In his politics, he has always been a consistent national democrat, opposed to nullification in 1832, and decidedly opposed to secession in 1850. It may be truly said of him, that he is the architect of his own fortune, being mainly indebted therefor to an indomitable energy and an untiring perseverance in the accomplishment of whatever he has undertaken to perform. In stature, Judge Warner is about six feet in height, and well-proportioned, and has a large, expressive, penetrating black eye. Plain and simple in his manners, regular in his habits, time, thus far, has laid its hand gently upon him; for he is now quite a young-looking man, and apparently capable of performing much good service to the people of his state, who have so often honored him with their confidence.

HON. GEORGE TAYLOR,

OF PENNSYLVANIA.

George Taylor, President Judge of the 24th judicial district of Pennsylvania, is about thirty-nine years of age; and when first elevated to the bench, was perhaps the youngest judge in the commonwealth. He is a native of Chester county, the son of an humble but honest blacksmith, with a large family and very limited means; and he was, consequently, afforded few facilities for acquiring even the rudiments of an education. He did not so much as learn the grammar of his own language in a school, nor has he been in a school or any other institution of learning, as a student, since he was a lad thirteen years of age. He is, therefore, truly and emphatically a self-taught and self-made man. Several years of his early youth were profitably occupied in teaching a country school. During this period he diligently availed himself of all the means of improvement within his reach, greatly increased his scanty stock of knowledge, and in the quiet seclusion of his rural home, unnoticed by those around him, laid the foundation of his present high position and prospective fame. Subsequently he found employment in the office of the Prothonotary of Huntingdon county, and in 1834 commenced reading law in the office and under the instruction of Gen. A. T. Nelson, of Huntingdon. He was admitted to the bar of that county in 1836, and soon gave promise of success in his profession; and, by his masterly efforts in a number of important cases, acquired an early and reputable standing as a lawyer and an advocate. When the legislature, in 1849, passed an act changing the judicial districts of the state and increasing their number, he was recommended, almost unanimously, by the bar of Huntingdon and Blair counties, for the president judgeship of the twenty-fourth district. In April, 1849, Gov. Johnston conferred upon him the appointment, which was unanimously confirmed by the senate. After the amendment to the constitution making the judiciary elective, was adopted, and by which the commissions of all the

judges in the state were terminated in December, 1851, Judge Taylor was unanimously nominated by the political party with which he acts, as its candidate for the same office. He was elected on the second Tuesday of October, 1851, by the people of his district, and is now in commission under the new or amended constitution. If his rise was rapid as a lawyer, it has been no less so as a judge, having already attained a respectable rank in the judiciary of Pennsylvania. As a man of sound judgment, a close, logical, and profound thinker, and a clear and forcible writer, he has no superior, and perhaps few equals, among that branch of the judiciary to which he belongs. His charges and opinions have been pronounced, by competent judges, not inferior to the best similar judicial productions that have been carried before the Supreme Court of the state since he has been on the bench.

This brief narrative impresses upon the mind at once the idea of a singular and uncommon character. Notwithstanding the unfavorable auspices under which he entered the profession, he had been at the bar only thirteen years when commissioned a judge, then a young man, lacking the *viginti annonem lucubrationes*, formerly considered an indispensable qualification for the discharge of judicial functions, even when united with the highest acquirements that could be won in the schools. And it is worthy of remark, also, in drawing a true portrait of the subject of this notice, that he is extremely unobtrusive and diffident in his manners, and singularly free from that vanity and ambition which not unfrequently prompt young men to thrust themselves into notice, and to make special efforts to elicit public attention and applause. His extreme diffidence—indeed, his sensitive delicacy, in shrinking from any place or effort which might lead envious minds to suspect that self was to be served—exhibits him, particularly to strangers, in an awkward and unfavorable light.

Judge Taylor is not a genius, in the popular sense of the term, nor can he lay a high claim to extensive and varied learning. His education has been acquired by thought and study, more than from books or in schools. His knowledge, literary and professional, has been obtained, chiefly, by a direct and severe effort of thought, which thoroughly trained and disciplined a naturally vigorous and well balanced mind, and gave him the power (which Dr. Reid justly considers the only true genius in matters of judgment) to hold a subject up steadily before the mind, and view it at once in all its various aspects and bearings. To this essential qualification of a judge, a sound judgment, he unites others of no less value,—unquestioned and unyielding integrity, and stern and severe impartiality. Much more might be said in this connection. But the design of this hasty sketch is to present only the prominent and most obvious traits of his intellectual and general character. Whatever a more minute analysis might disclose explanatory of his successful career, it is impossible to follow the history of this penniless and friendless boy in his steady and rapid rise, by his own unaided efforts, from obscurity to a high and responsible judicial station, and see him there discharging its important functions so satisfactorily under an executive appointment, as to receive the approval of the people at the ballot-box, without feeling the conviction that he merits a distinguished place and notice among those men of his own day and country, whose talents and

worth have raised them above mediocrity. His name and history should be held up conspicuously as an example and an encouragement to modest genius everywhere, and as a striking illustration of the benign, elevating tendency of our free institutions. What humble, care-worn student can read this brief history without feeling his hope of success raised, his difficulties diminished, and his energies stimulated to renewed and more vigorous exertion. What American youth can rise from the perusal, and not feel proud of his country, whose highest honors are held out indiscriminately to all—placed within the reach of the most humble and obscure—made attainable, too, without the adventitious aid of wealth, or family name and influence; nay, even against and despite the very formidable impediments which opposed young Taylor in the race, starting, as he did, in quest of the prize, without the advantages of a liberal education.

JUDGE ELLIS,

OF NORTH CAROLINA.

The judicial system of North Carolina consists of a Supreme Court of appellate jurisdiction exclusively, held by three judges; superior courts of law and equity for every county in the state, over each of which a single judge presides; and county courts of limited jurisdiction, held by the magistrates of the respective counties.

The state is divided into seven circuits, in which are classed all of the superior courts, and a judge is appointed to ride each circuit twice every year. These judges are elected by the General Assembly, and hold office during good behavior. The subject of this sketch is one of the seven judges of the state who preside in the superior courts of law and equity.

John Willis Ellis was born in North Carolina, November 23d, A. D. 1820. His father, Anderson Ellis, was a respectable and wealthy planter in Rowan county. He resided in that part of the county known as the Jersey Settlement, so-called from the fact that it was settled by emigrants from New-Jersey, and from whence the maternal branch of this family came. The paternal branch came from Henrico county, Virginia, about the year 1730.

The education of the subject of this sketch commenced at the schools in the neighborhood, and was completed at the University of North Carolina, where he was graduated in the year 1841. He commenced the study of the law while in college, under Hon. David L. Swain, then, as now, President of the University; and after leaving there, his legal studies were further prosecuted under Judge Pearson, at Mocksville. He was admitted to the bar in the county courts in 1842, and the same year located at Salisbury, the seat of justice for his native county, where he has since resided. In 1843 he was admitted to practice in the superior courts. He rapidly rose to a prominent position at the bar of which he was a member, and his powers in forensic debate were such as to give him at once much influence with the juries. Habits

of industry and close application soon gained him a lucrative practice, which continued to increase as long as he remained at the bar. As an advocate, his course was distinguished by promptness, assiduity and fidelity.

In the summer of 1844, he was elected a member of the legislature in the house of commons from Rowan—a county opposed to his political views—a high evidence of his appreciation by the people, and of their confidence in his character, and of his worth as a citizen. He was selected for the same post in the successive elections of 1846 and 1848, during periods of intense political excitement throughout the whole country. He was never defeated in any election before the people, though his political views were not popular in the state, nor in his county. Zealously, yet conscientiously, he advocated the claims of Mr. Polk and General Cass to the presidency when they were before the people, and all the measures of the democratic party, as understood at the time.

During the session of the legislature for 1848, while a member of the house of commons, he was elected to fill the vacancy upon the Superior Court bench, occasioned by the elevation of Judge Pearson to the Supreme Court—which dignified position he now holds.

The political career of Judge Ellis was marked with justice, liberality and patriotism. These traits of character were evinced in his manly course towards his political opponents. He properly appreciated their motives, met their positions with fair and logical argument, and weighed their measures in the scale of candour.

But his public services were not wholly of a political or party character. During the session of the legislature for 1848, he introduced a bill, upon the memorial of the distinguished philanthropist, Miss Dix, of Boston, to establish in North Carolina a hospital for the insane, which, subsequent to his resignation, was passed into a law. He also proved himself a warm advocate for the enlightened system of internal improvements that is now prosecuted in his native state.

But it is to Judge Ellis in his official character, that the attention of the public has been more particularly directed. When selected for this position, he was barely twenty-eight years old, and was thought by many on this account to be objectionable. But time has proved the excellence of the appointment, as evidenced by the united opinion of the bar, the press, and the people.

It is said of him, that he looks for his guidance to those rules which Lord Campbell says, in his Lives of the Chief Justices of England,* Sir Matthew Hale laid down for his own government when he assumed the office of chief baron of the Exchequer, among which are the following:

"That I be wholly intent upon the business I am about, remitting all other cares and thoughts, as unseasonable and interruptions."

"That I suffer not myself to be prepossessed with any judgment at all, till the whole business and both parties be heard."

"That I be not biassed with compassion to the poor, or favor to the rich, in point of justice."

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* P. 433.

The same learned author remarks, "I have known laudable resolutions formed by new judges very speedily forgotten; and it is a curious fact in the annals of our profession, that those men who, when at the bar, complained most bitterly of judicial impatience and loquacity, becoming judges themselves, have been most noted for being impatient and loquacious." Such, however, is not the case with Judge Ellis. He never was known to write a letter, or read a newspaper while on the bench, or engage in anything else calculated to draw his attention from the business before the court. He uniformly listens fully to all the arguments of counsel upon both sides of every question presented, before expressing an opinion. His summing up of the evidence is marked with fairness and impartiality, carefully keeping from the jury any opinion which he may entertain upon a mere question of fact. He receives cheerfully any suggestions of counsel, pointing out evidence omitted by him, and usually asks the counsel, before directing the jury to retire, whether they desire any other instructions than those given in the charge, either as to the law or the facts.

He possesses the qualifications that the late learned Archibald Henderson, of North Carolina, thought so essential to a judge. He declared—"that he had seen many good lawyers, but few good judges—that good common sense and discretion of mind was the first qualification; and an intimate acquaintance with mankind, their passions, feelings, prejudices, modes of thinking, and motives of action, the next."

In the administration of the criminal law, and the imposing of discretionary punishments, Judge Ellis may be thought by some to lean to the side of mercy. He always keeps in view the circumstances by which the offender may be surrounded, and affixes a penalty suited to his condition in life and his ability to bear it.

HON. ALEXANDER McKINSTRY,

OF ALABAMA.

The father of the subject of this sketch was descended from John McKinstry, a Presbyterian minister, who emigrated to New-England in 1718. His mother, whose maiden name was Elizabeth Thompson, was a branch of an old and distinguished family, both before and since the Revolution, a descendant of Gen. Elijah Clarke, of Georgia, a revolutionary officer of high distinction, whose son, Gen. John Clarke, occupied a conspicuous position in the Indian warfare of Georgia, and was governor of that state.

The Hon. Alexander McKinstry is a native of Augusta, Geo., and was born March 7, 1822. He was left at an early age without father or fortune, and during his course of education encountered the hard struggles which it has been observed are ever attendant upon those who arrive at position or eminence in our country; although considered then the greatest of calamities, they were really those "blessings in disguise" which always tend to elevate and dignify the character. At his mother's

second marriage, he was placed at New-London at school, and then at Bacon Academy, Colchester, Conn., an institution eminent at that time, where, under the tuition of that venerable tutor, Mr. Charles P. Otis, whose forcible and striking illustrations of the utility and power of the "birch" as the true and invaluable aid, and almost necessary index, to the acquirement of knowledge, he formed the foundation of the scholarship from which he has since reaped such infinite benefit.

Anxious to advance himself as rapidly as possible, and having no definite view of the future course he was to pursue, when he was about thirteen years of age he availed himself of an invitation extended by his maternal uncle, and accompanied him to his present home in Mobile, Ala.

He entered a commercial house in that city for a time. While thus engaged, his fondness for reading, which he had evinced from his earliest boyhood, gave him many of the advantages that he would otherwise have lost by leaving school. His friends, attracted by his unquestionable talents and admirable qualities, persuaded him to study a profession. After hesitating for some time from a distrust of himself, in May, 1842, he entered the office of John A. Campbell, an eminent lawyer and profound scholar.

He was admitted to the bar in November, 1842. His life since then has been one of laborious study. His mind is of the highest order, disciplined by habits of patient and arduous investigation, profound reflection, close reasoning, and great concentration, combined with extensive information and sound judgment. He is unpretending in his attainments, and modest in exhibiting them; "self-reliance" is the moving power with him; nothing diverts him from his purpose, if satisfied that it is a commendable one. He early assumed a commanding position in his profession, and arrived at distinction. In May, 1850, he was elected judge of the city court of Mobile, having full civil and the highest criminal jurisdiction for Mobile county, and in that responsible position has so acquitted himself as to command the unqualified approbation of the public, for clearness, promptness, and firmness in his decisions, and directing the business before him in a manner the best calculated to insure the attainment of justice.

He has filled many of the most prominent and dignified county offices. In 1844, he was appointed United States commissioner, which office he held until he was elected judge.

He has been for many years a professor of religion, and an active member of the Methodist Episcopal church. In politics, he has ever been an active and uncompromising Whig, and devoted to the Union, though he is of the opinion that its stability is best secured by a solemn regard for the rights of the states.

He was married in 1845 to Virginia, a daughter of Robert R. Dale, of Mobile, from which marriage there are three children living.

Amidst all of his labors and contests in life, he has ever seemed to find that happiness and contentment in the family circle that above all else on this earth is most desirable.

His features are a true index of his character, showing the energy of mind and firmness of purpose which are his peculiar attributes. He unites with these qualities that urbanity of manner which invariably

insures the respect of all; his address is rather distant at first, but it soon softens into kindness and cordiality. Although he occupies a high and enviable position, it is but the commencement of his career. "Knowledge is power;" and he who toils and strives to promote its growth, will ever reap an abundant harvest.

HON. SAMUEL ANDERSON,

OF MURFREESBORO', TENN.

The subject of this sketch was born on the 5th January, 1787, in Rockbridge county, Virginia. His parents were of Scotch and Irish descent. Their religious creed was of the Presbyterian faith, and he was educated according to the strict and rigid rules required by the standards of that church.

In the year 1800, his father removed with his family to Knox county, Tennessee, and settled about seven miles from Knoxville. He had a large family, and being in moderate circumstances, the present judge was compelled to work on the farm with his younger brothers, until he attained the age of twenty-one.

His oldest brother, however, was sent to school, with a view to obtain as good an education as the literary institutions in the country at that day could furnish. He finished his collegiate course at Washington college, near Lexington, Rockbridge county, Virginia.

Samuel Anderson obtained from him a smattering knowledge of Latin and Greek, and some of the sciences. Shortly after becoming of age, he commenced the study of the law. He obtained a license in the winter of 1810, being then in his twenty-third year. He practised in Knoxville and some of the adjoining counties, until early in the year 1811, when he settled in Murfreesboro', where he has ever since resided. He represented the county of Rutherford in the legislature of his state in 1817 and 1819, and the called session of 1820. In the winter of 1835, he was appointed by the then governor judge of the fifth judicial circuit of the State of Tennessee, to fill the vacancy occasioned by the resignation of the Hon. James C. Mitchell. He was elected by the legislature judge of the same circuit, under the new constitution, for the term of eight years, in the fall of 1835; was again elected, in the fall of 1843, for another term of eight years.

HON. WILLIAM R. SMITH,

OF ALABAMA.

It frequently happens that those acts of life which at first seem to be unfortunate and ill-advised, are the true sources of distinction and honor—so fickle and uncertain is public opinion upon new questions. This remark is peculiarly applicable to the position of the honorable gentleman from Alabama, whose resolute face is very fairly presented in the accompanying portrait. No new member of the present Congress

has excited so much public interest amongst the masses of the people, as the man who first raised his voice in a positive and distinct manner in Congress against the extravagant proposition and arrogant pretensions of Kossuth.

A brief notice of Mr. Smith's debut in Congress will not be without interest.

On the eighth day of the session, when the states were called for petitions, &c., the member from Alabama arose, and requested the House, in rather a timid manner, to excuse him from serving on the committee on claims, to which he had been appointed by the Speaker. In courtesy to the request, the House being in good humor, voted to excuse him. After this, he again arose, and throwing off the apparent humility and timidity which had marked the manner of his request, he called the Speaker's attention, and said:—"I give notice to the House, that on to-morrow, or some subsequent day, I will introduce joint resolutions, requiring the Secretary of State to furnish Louis Kossuth with the laws of treason and misdemeanors against the United States; the resolutions go further to declare, that if after reading the laws, Kossuth should continue to make his incendiary speeches, it shall be the solemn duty of the President of the United States to cause him to be arrested."

The Kossuth excitement was, at this time, at its highest pitch; of course the House was taken by surprise, and presented for an instant the singular spectacle of a body of men halting between opinions, and not knowing whether to laugh, or hiss, or to applaud. The thing passed off amidst a huge laugh, and the member from Alabama was marked as at least a bold politician, not having exhibited the slightest excitement during the scene.

Mr. Stanton, of Kentucky, asked:—"Does the gentleman wish to revive the alien and sedition laws?"

Mr. Smith.—"No, sir; but we want no more *Pampero expeditions.*"

Thus the matter ended for the present.

Mr. Smith speaks of his position as "very uncomfortable; not a single member of Congress expressed the slightest sympathy with me; the newspapers from all quarters commenced abusing me; my mail was literally crowded with insulting epistles and lampooning editorials; but I felt an abiding confidence in the certainty of a reaction in my favor, and only desired an opportunity to vindicate my resolution."

On Saturday, 13th of December, the Senate passed the welcome resolution; on Monday the 15th, as soon as the House met, the resolution was brought in from the Senate, and the previous question on its passage called and sustained. This cut off all debate; and when Mr. Smith entered the hall, as he says in his speech, he "found the House voting the adoption of the Senate resolution. I was forced to vote for the resolution, in order thus to secure to myself the privilege of moving a reconsideration, hoping, in this way, to be able to make my vindication; but in this I have been anticipated by the honorable gentleman from Indiana, (Mr. Robinson,) who moves to reconsider, and to lay his motion on the table.

"I now, as a last shift, move to reconsider the vote by which the

title of the resolution was adopted, and under that motion I ask leave to make a personal explanation."

Here ensued one of the scenes of confusion and disorder so common in the House; and every possible obstacle was thrown in the way of a speech. The confusion and uproar lasted more than an hour, during which time Mr. Smith exhibited the utmost composure, leaving the objecting members to settle the questions of order with the Speaker, who, to his great credit, sustained Mr. Smith in all his decisions.

One member went so far as to appeal from a decision of the chair; and another hour was consumed in calling the yeas and nays on its appeal. The chair was sustained, and Mr. Smith was allowed, after a two hours' struggle, to proceed with his explanation.

The speech is remarkable in many respects. Though delivered under the most embarrassing circumstances, it had the effect of quieting the turbulence of the House for the moment, and brought many to a pause who had favored the resolution of welcome. It exhibited a perfect acquaintance with the whole Hungarian question, and was occasionally spiced with bitterness, satire and humor. Here, for example, is a clever fling at the Senate and the newspaper press:

"The course, Mr. Speaker, which has been taken by the Congress of the United States upon this resolution, presents to the country a most extraordinary spectacle of legislation. A few days ago, when it was introduced in the other end of the capital, we see that it met with so light favor that its projector (Mr. Foote)—a man of indomitable zeal and energy—thought proper to withdraw it, under the frowns of opposition. At that time, the "Star of the East" had not arisen; at that time Kossuth had not appeared, and popular commotion had not been aroused in the country; at that time the mob power had not begun to be exercised. But suddenly, the wires begin to cry out, 'Kossuth has arrived! Shame on Congress!! Make haste, gentlemen, and pass your resolution, or you will delay the illustrious exile! The people demand your homage to this eastern idol! Act—act—or the people will hold you accountable!'

"And here I present the House with an extract from a precious editorial in the *New-York Herald*, to show how the press assails honest men, and thus attempts to control the action of Congress:

"'The scene on Wednesday last in the United States Senate, during the debate on the Kossuth resolution, was one of peculiar interest. The Russian Minister was the distinguishing feature of the occasion. He was observed to pay the deepest interest to the discussion. When Foote spoke, he looked on with that expression of contempt and disgust with which one of our codfish aristocracy would regard a democratic harangue from Mike Walsh. When General Cass spoke, however, the countenance of M. Bodisco assumed a melancholy expression, as if touched with a presentiment of the power of the unterrified democracy of this country in shaping out the action of our government. But there were two sides to the question; and when General Dawson, of Georgia, took the Russian side, the Siberian coldness of the distinguished envoy was thawed into a genial smile of approbation. The speech of Mr. Underwood, however, told with the happiest effect. Several times he

lifted his hat, as if about proposing three cheers for Underwood, but desisted, most likely, out of respect to the Senate.

"'The fact is, the Russian ambassador had achieved a great victory. He had heard Kossuth and his cause denounced in the American Senate, and he had occasion to plume himself upon the result. Why? Because, as we are apprised, he had been *seen in close and suspicious confab with Messrs. Dawson and Underwood* on the floor of the Senate the day before. Hence we are free to infer, that M. Bodisco, for the time, transferred the scene of his negotiations to the Senate chamber, and alarmed Messrs. Dawson and Underwood with all sorts of horrible hobgoblins. He could not himself have made a better Russian speech for the Austrians than that of Mr. Underwood. Such appears to be the influence in the Senate of the chief of the diplomatic corps. But there it stops. The House of Representatives breathes a different atmosphere; and that *unruly* body, together with the public *press* and the American people, will pay very little attention to such broken-legged arguments as those of Mr. Underwood against Kossuth. General Foote should have started his resolutions in the House. The Senate appears to be too old and dignified for republican enthusiasm. But Seward may succeed where Foote has failed. Who knows?'

"There, sir, you have a lecture. And it seems really to have rejuvenized the Senate, and inflated it with all the enthusiasm of Young Americanism! For Seward *has* succeeded, where Foote has failed! And a resolution, though not in the same terms, yet looking to the same object, has been introduced in the Senate, and that body has passed it with but six dissenting voices. Is that legislating within the walls of this capitol beyond the influence of popular commotion? Or is it not, rather, the public outside these walls who make the law and pass the resolution?

"But what do we see in this House? We see the same resolution brought forward here, at the hour of twelve o'clock, and before a remark could be made, the previous question was called; that question was sustained, and the resolution passed. So that Mr. Bennett was not mistaken when he said of this House, in the extract above, 'that *unruly* body, together with the *public press* and the American people, will pay very little attention to such broken-legged arguments as those of Mr. Underwood.'

"And in the New-York *Sun* I find another *compliment* to Congress, reading thus:

"'Kossuth has found here (in Washington) as much favor as he has found in New-York. Congress was, *at first*, disposed to show him the *cold shoulder;* but, as Kossuth began to *loom up*, disclosing his *colossal* proportions, Congress *hastened to take shelter under his broad shadow.*'"

This brought on another scene of confusion and disorder, which elicited the following:

"I say to the gentleman from Ohio, (Mr. Carter,) that I censure no one. I refer to facts, and show the record. That gentleman ought to know that the triumph of humbug is one of the characteristics of this age. But let no man be deceived. If he be wise, he will not. Yet public opinion is so easily manufactured in this country, that the wisest and best of us know not how to take it—whether as the mirror of merit

or the guile of speculation. It is a little remarkable, in this particular case, that Mr. Genin, the man who paid the first $500—or $800 for the first *prize seat*—to be located near Jenny Lind, is the identical humbugarian who is the *first* to subscribe $1,000 to the Kossuth fund! His Jenny Lindism was an idea of speculation—*to increase his sale of hats;* his Kossuthism may be traced to the same magnificent conception! The fortunes of Barnum and Jenny Lind depended greatly upon the *start—the beginning;* and the result showed that Genin's bid fixed the custom, and established, in a great measure, the price of the prize seats at the concerts.

"The growth and power of mobism in New-York is not surprising. Yes. With its 100,000 aliens, always floating, and always under the control of its gang of alien editors, whose bed is restlessness, and whose food is sedition; with its 100,000 people who never go to church; with its 9,000 grog-shops, kept mostly by aliens; with its Barnums, Genins and Greeleys, to lead and to incite—I say the growth and power of mobism in New-York is not surprising. But it *is* surprising that the *old 'solidarity' end of* the capital of the United States should be rocked from its anchorage of dignity by the waves of popular commotion!"

These are very hard, but very fair licks, under all the circumstances.

The speech contains many passages which show that Mr. Smith has at his command a fine literature and a rich and luxurious phraseology; for example:

"Mr. Speaker, is it the object of the resolution you have just adopted to contribute to the happiness of Kossuth? Let us inquire, a moment, into his condition. It is thought by some persons to be the greatest evil that can happen to man, to be banished from his country. But this is not always the fact. The extent of the misfortune depends upon circumstances—the country from which he is banished, its situation, its wealth, its poverty, its laws, and the home-condition of the party banished at the time. Indeed, it is always a misfortune. I remember that Diogenes counterfeited coin in order that he might be banished from Pontus; that Stratonicus committed forgery in order that he might be banished from Straphos. They thought that to be banished from such countries was getting out of prison.

"Now, if we look at the condition of Kossuth, at the time of our intercession in his behalf; if we consider the condition of Hungary both before and after the war; if we look upon the condition of the exile at the time of his banishment, we are bound to conclude that Kossuth may not only not be considered an unfortunate, but, truly, a most fortunate man. We have it, in the story of Themistocles, that when he was banished from Athens he fled to the court of Persia, where he was received with much graciousness. The great monarch of Persia set apart for him six cities; one for his wine, one for his meat, one for his bread, one for his chamber, one for his wardrobe, and I suppose another for his kennel. Well, Themistocles, while living in the midst of so much splendor, forgot poor little Athens, and considered himself the happiest of men; and in contemplating the splendor and luxuries with which he was surrounded, he was led to lay his hands upon the heads of his children, and exclaim, in the excess of his delight: 'Ah! my children, we would have been undone, but for undoing!' Happy Themistocles!

Now, let us look at Kossuth again. There he stands, before the American people, welcomed as no man was ever welcomed before. Private assemblies and public assemblies go forth to greet him; private mansions and public mansions, heart and all, are opened to receive him. Military chieftains and municipal authorities attend him with all the pomp and circumstance of place and power; and musical bands, with all their glowing and charming incidents, combine to welcome him to these shores.

> 'Wine, wit and beauty still their charms display,
> Light all the shades of life and cheer him on his way.'

Happy, happy Kossuth!"

One cannot fail to remark the perfect simplicity of Mr. Smith's style. There is no straining after sonorous syllables or new and uncommon words. The idea is not lost in the verbiage. Monosyllables are preferred, and never abandoned, when they will express the thought. Yet there is a harmony and sometimes a music in this arrangement. Here is a fair specimen of pure English with a rich vein of thought:

"Everybody knows, Mr. Speaker, what has been our policy. It makes no odds whether Washington recommended it in so many words. And what has been the result of that policy? Why, from the small beginning of three millions of inhabitants, we have now got twenty-three millions; from a small number of states, we are now over thirty; from a ragged population, we present the best dressed people in the world; and from poverty we have risen to the greatest wealth and prosperity. Why, and how, did we get all these? By an adherence to the great principle of *staying at home and minding our own business.* It is a principle upon which a private man thrives. It is a principle upon which private families prosper. It is a principle upon which a neighborhood has peace and prosperity and enjoyment. It is that great principle which has raised us up to the greatest government on earth. But Kossuth says that we may depart from that policy now —that it was wise when we were young, but that now we have grown up to be a giant and may abandon it. Here is another bit of philosophy for you. We can all resist adversity. We know its uses—

> 'Sweet are the uses of adversity,
> Which, like a toad, ugly and venomous,
> Wears yet a precious jewel in its head.'

It is the crucible of fortune. It is the iron key that unlocks the golden gates of prosperity. I say, God bless ADVERSITY; she pricks me, and I bleed, and am well. But the rock upon which men and nations split is PROSPERITY. This man says that we have grown to be a giant, and that we may depart from the wisdom of our youth. But I say that now is the time to take care. We are great enough; let us be satisfied; prevent the growth of our ambition; prevent our pride from swelling, and hold on what we have got. Do you remember the story of the old governor who had been raised from rags? His king discovered in him merit and integrity, and appointed him a satrap—a ruler over many provinces. He came to be great, and it was his custom to be escorted throughout the country once during the year, in order to look into the condition of his subjects. He was received and acknowledged everywhere as a great man and a great governor. But he carried about with him a mysterious chest, and every now and then he

would look into it, but let nobody else see what it contained. There was a great deal of curiosity excited by this chest, and finally he was prevailed upon by some of his friends to let them look into it. Well, what did they see? They saw an old, ragged and torn suit of clothes, the clothes that he used to wear in his humility and in his poverty; and he said that he carried them about with him in order that when his heart began to swell, and his ambition to rise, and his pride to dilate, he could look on the rags—they reminded him of what he had been, and thereby he was enabled to resist the temptations of prosperity. Let us see whether this can illustrate anything in our history. Raise the veil, if there is one, which conceals the poverty of this Union when there were but thirteen states. Raise the veil that conceals the rags of our soldiers of the Revolution. Lift the lid of the chest which contains the poverty of our beginning, in order that you may be reminded, like this old satrap, of the days of your poverty, and be enabled to resist the advice of this tempter, who tells you that you were wise in your youth, but that now you are a giant you may depart from that wisdom!! Remember, Mr. Speaker, I beseech you, remember, now, the uses of adversity! *For great is the man and greater is the nation, that can resist the enchanting smiles of prosperity.*"

So much for the debut. The published speech was received everywhere, by the impartial press, with the highest approbation; and Mr. Smith took his place in Congress as one of the most remarkable of its members. The New-York Atlas says of this speech—"We found in it a rich treat. It most faithfully sustains the position assumed by the resolution; evinces great research in reference to the Hungarian question, and reflects infinite credit on its author."

The New-York Evening Mirror says of it—"It is a bold, pithy, pungent production—full of hard hits all round. Mr. Smith treats the whole Kossuth committee as a humbug, and seems to be well posted up, not only in regard to the history of the Hungarian revolution, but in all the movements and doings connected with the Kossuth mania in New-York. Bennett, Barnum, Genin, Hagadorn, and others, get sly hits from the witty Alabamian, and even grave and dignified senators come in for a share of his satire. At the time of its delivery, Mr. Smith was on the unpopular side of the question, yet we should not be surprised if the reaction in the tide of Hungarian enthusiasm swept back, even beyond the position so boldly taken and so ably maintained by the 'gentleman from Alabama.'"

This reaction has taken place. The public is now greatly amused at the harmless excess of the most singular delusion and enthusiasm which has ever prevailed. Honor be to whom honor is due. When we reflect that at the time of this movement, Mr. Smith was a new member in Congress—a young man—a stranger in Washington—unknown beyond the limits of his own state—standing in a feeble and silent minority of 16 against 300 members of Congress—and in the face of the whole country, which seemed to be absolutely swept away by the torrent of popular delusion, the positive reaction in his favor must be considered as a most remarkable parliamentary triumph. What is most gratifying of all—the Alabama legislature adopted resolutions, almost unanimously, sustaining the principles of the speech.

The writer of this sketch was informed by Mr. Smith, on the night before their introduction, of his intention to offer the arrest resolutions, and he very strongly remonstrated against it, as hazardous in the extreme, but was answered in a phrase which he will not soon forget:—"I intend to seek difficult positions in order to *get out of them*." This is a characteristic remark, and shows a self-reliance which, if backed by actual capacity, cannot fail to achieve a successful career.

Mr. Smith's career in Congress promises to be brilliant. He is modest and unobtrusive in his intercourse with the members, never mingling in the discussions which ordinarily arise; he seems to be resolved not to occupy the time of the House, except upon matters which he has matured into a speech. He has delivered but two speeches, yet, in Congress, and each of them were marked with the appearance of having been well considered beforehand. The last speech produced upon the members of Congress a much more favorable impression than the first, and was listened to with a respect and attention which is now so uncommon as to be considered the highest compliment.

This last speech, upon the subject of *Printing the Census*, and politics incidentally, exhibits a mind remarkably practical and acute, with a richness of historical and literary illustrations not commonly met with in Congressional speeches. These illustrations are so happily applied as to relieve the orator from the appearance of pedantry, and to exhibit, at the same time, the traces of the studious and laborious habits of the author.

Mr. Smith has spent a large portion of his time in the pursuits of literature, having early acquired a passionate fondness for it. His progress in the practice of law was greatly retarded by this. For many years his struggles at the bar failed of success, owing to his diversion of time—much the larger portion of it being given to literature. A few years ago, however, he removed to a remote end of his circuit; devoted himself exclusively to law—and very rapidly acquired a lucrative practice, and the character of an able and ingenious advocate: so that in 1850, he was elected judge of the seventh judicial circuit of Alabama; in this position he sustained himself to the utmost satisfaction of his friends, and received the highest commendation of the bar and the people for his prompt and impartial manner of presiding.

Judge Smith has not only established a judicial reputation, justly gratifying to himself, but has dashed boldly and with fearless confidence on the support of his constituency in the strife of politics. This union of seemingly incongruous qualities, with other elements of character, distinguish his productions as a literary man. The elaborate article in the January number, 1848, of the Southern Quarterly Review, entitled "War and its Incidents," is characteristic of his various traits of mind and diversity of cultivation. Read it, and group it in the mind, and you will perceive the exactness of a judicial analysis; the severity of a scholar's criticism; the sarcasm of a caustic wit; the dashing bravery of a southern chevalier, and the aspiration and the inspiration of the poet. Frequently many of these qualities seem to be concentrated in eight or ten lines.

"The history of war is the history of men more than of nations. The eye of the reader, as in the heat of conflict, follows through the

ranks of carnage, that favorite plume which courts and defies danger;—and which seems a signal—an inspiration—a shout and a victory wherever it goes. The political effects of a battle are not seen, but only felt in after ages, when dreamy speculation hunts for the causes of revolution, and inquires for the throne that *was!*"

The caustic severity with which this article exposes the avarice, the *sacra auri fames*, of Bestra; the love of office of Abinus, and the "haunting inclination" of Caius Marius, which respectively impelled these Roman generals to gain important victories, but to make great sacrifices of property and life "*to be at Rome to attend the elections*," is strongly marked, and is a fine denunciation of the vain-glory, vanity, and ambition of military usurpers, who would succeed to office by the pageantry of a triumphal entry, or a *coup d'etat* on public opinion.

The plot and counterplot of Jugurtha and Metellus is a fine specimen of that game of generalship where "black-browed strategy holds its consultations with ambition."

This article was published in January, 1848. It is marked with all the characteristics of which we have spoken, and displays great extent of reading, by its variety of illustration and its marshaling of facts. While it denounces and exposes many of the acts of the military demagogue, as in Marius, it was prophetic of the elevation of Taylor, and gives to the country an impressive lesson, many lessons, from the sad tale of the past. The judicial robes of the judge, in their spotless ermine, cannot blend with the crimson which dies the *feathers* of a bloody ambition.

HON. DAVID M. WOODSON,

OF ILLINOIS.

"*Si quereretur, quisnam jurisconsultus vere nominaretur, eum dicerem, qui legum et consuetudinis ejus, qui privati in civitate uterentur, et ad respondendum, et ad agendum, et ad carendum, peritus est.*"—*Cicero, De Or.*, i. 48.

Perhaps the most difficult of all literary tasks is to write an unexceptionable memoir of a living man. If the life is worth the record, there is always danger of offending that delicacy which is inseparable from merit; for even modern praise, which may meet the eyes of its subject, is apt to seem fulsome; while a nice sense of propriety would not be the less wounded by a dry abstract, which should contain nothing but names and dates. To sum up a career, too, which is not yet ended, would appear like recording events which have not transpired; since, justly to estimate the scope and meaning of a history, it is most important that we have the closing chapter. In writing such a biographical notice, therefore, the chronicler, from the moment he takes up his pen, should consider his subject as no longer among his contemporaries: for thus he will avoid the fear of offending, by bestowing praise where it is merited, and escape the risk of giving but a fragmentary view of that, which must eventually be taken as a unit.

These difficulties are more formidable in the case of a civilian than of a military man: for the story of the latter is told by simple reference to events which all the world is sure to know—the significance of

half a lifetime is compressed within a day; an hour's intense action lays bare the thoughts and combinations of many weeks; and the result is embodied in round numbers of lives sacrificed, bodies mangled, and rights trampled. But with the civilian, the case is far different: his victories are the nobler triumphs of peace—calm, healthful, deep and unobtrusive, they must be enlarged upon, in order to be appreciated. And especially is this true of him, whose usefulness flows through the channels of the law,—whose duty it is to hold the scales of justice, and, amid the irritations and distractions of forensic battles, to preserve unclouded both his reason and his sense of right. There is supposed to be no heroism in this, because men will seldom praise anything which does not challenge admiration by obtrusive glitter and vain trumpeting; but in proportion as moral courage is a higher quality than physical impulse, so is the triumph of the just judge nobler than the victory which writes itself in blood.

Hon. David Meade Woodson (judge of the first judicial circuit, in the state of Illinois) was born in the county of Jessamine, Kentucky, on the eighteenth day of May, 1806; and is, therefore, but forty-six years of age. His father was Samuel H. Woodson, Esq., a lawyer of eminence even among the distinguished men who then illustrated the bar of Kentucky. He was a law-student of the celebrated George Nicholas, and was a cotemporary of Henry Clay, William T. Barry, William Logan, Jesse Bledsoe, Robert Wickliffe, John Rowan, and other remarkable men of Kentucky's brightest period. A gentleman of polished address, various acquirements, and great personal popularity, he repeatedly represented the county of Jessamine in the state legislature, and in 1820 was elected from the Ashland district to Congress. He died in 1827, aged about fifty years.

He was a native of Albemarle county, in Virginia, whence he was brought by his mother and step-father, (Col. Joseph Crocket, an officer of distinction in the war of the Revolution,) when he was seven years of age. On the first day of January, 1804, he married Ann R. Meade, the daughter of Col. David Meade, who had settled, at a very early day, at a place about nine miles south of Lexington, in (what is now) the county of Jessamine. His mansion (*Chaumier du Prairie*) was long celebrated as the seat of elegant and hearty hospitality—while its master was renowned, even among the men of that time, for his polished and graceful manners, extensive reading, and refined taste.

By this marriage, David Meade, the subject of this sketch, was the second son; and it was amid such associations as these, that his early youth was passed. Having spent some years at classical schools, in the neighborhood of Lexington, and a short time at Transylvania University, he was, at the age of seventeen, placed under the tuition of the celebrated Jesse Bledsoe, then one of the professors in the law school of that institution—securing, thus, the advantage of daily intercourse with one of the acutest minds of the country. The remainder of the term, devoted to preparation in the law, was spent in the office of his father, who was commendably anxious that his son should be thoroughly armed for the contests to which his vocation destined him.

In 1827, however, his father died; an event which devolved upon the young lawyer and his brother the arduous and perplexing duty of

settling up an extensive and complicated estate—while their widowed mother (who is yet living) and seven minor children looked up to the two brothers as their natural protectors. These circumstances, and the new duties and responsibilities thus suddenly imposed upon him, in a great measure withdrew the future jurist's attention from his profession for several years; and it was not until his brothers and sisters had been educated and prepared for their various walks in life, that he was enabled to return to a study to which he had always been strongly attached. The voluntary devotement of so many years of his life, by one who was looking eagerly forward to an honorable distinction—to be gained through a profession thus thrown aside—is a sacrifice which few men are capable of making, but which, for its self-denial, is above all praise.

In 1831, when but a few days past the age of eligibility required by the Constitution, he was brought forward, by zealous and partial friends, as a candidate for a seat in the state legislature. It was a peculiarly interesting period—a sort of local political crisis. The county had been largely democratic; but, year after year, the whigs had been gaining ground, until, at the time above-mentioned, it was supposed that a strong whig candidate might complete the revolution. It was a flattering index to Mr. Woodson's standing among his fellow-citizens that he was chosen, at this juncture, as the standard-bearer of his party. His competitor was one of the most popular and estimable of the many prominent democrats of the county; selected, like his young opponent, with special reference to the crisis.

It was remarkable then—and a like circumstance would be still more so now—that both parties passed through the canvass without displaying any of that virulent and reckless disregard of private character which so often disgraces warm political contests. The candidates themselves were upon the most cordial terms; and though each felt it to be his duty to defeat the other, if he might, neither was inclined to compass that end by other than the most honorable means.

A small majority crowned the efforts of the whigs; and, I believe, that in no election since that year has a democrat been returned from the county. The value of the victory was enhanced by the youth and inexperience of the leader; and the enthusiasm which, among the warm hearts of Kentucky is always so ready to overflow, was manifested on this occasion in a manner, which, among people less demonstrative, would be deemed somewhat extravagant. Amid shouts of exultation and manifestations of extreme joy, the youthful legislator was borne in triumph through all the streets of the village upon the shoulders of his neighbors—an incident which, *outré* and irregular as it may appear to colder temperaments, at least attests the warmth and sincerity of men's convictions.

Within a few days after taking his seat in the legislature—much the youngest man in that body—he cast one of the votes which sent *Henry Clay* to the United States Senate; an act to which—now that that honored statesman is lingering on the brink of the grave, at the close of a career of noble and patriotic usefulness—he may look back with pride and pleasure, not unmingled with melancholy.

In the same year of his election, on the sixth of October, he married

Miss Lucy McDowell, sister of Dr. McDowell, (a physician and surgeon of considerable eminence, resident in St. Louis,) and daughter of Major John McDowell, of Fayette county, Kentucky. During the autumn of the following year, (1833,) after the close of his term as representative, he visited Illinois, for the first time; and having selected Carrollton, in Greene county, as his future home, returned to Kentucky to complete his arrangements for emigration. The next year found him settled for life, at the capital of one of the richest agricultural counties of a state which has no equal, in fertility, in the Union.

Here he resumed the practice of the law, in connection with Charles D. Hodges, Esq., who had, like Mr. Woodson, but recently emigrated to Carrollton. And it may be noted, as illustrative of the character which has distinguished the subject of this sketch, as well as Mr. Hodges, that, in the shifting relations of the west, the cases are exceedingly rare in which a partnership has continued so long and so perfectly free from discord. The peculiar constitution of western society, the endless changes brought about by immigration, the connection of almost every western lawyer with political interests, and the nature of the profession itself, all tend to shorten the duration of legal partnerships. But, in spite of these things—and I dwell upon the circumstance, because it is so honorable to both parties—this association endured, without a single serious difference, for more than fourteen years; and, even at the end of that time, was only terminated of necessity by the election of Mr. Woodson to a judgeship, in 1848.

But few lawyers of this state have been more successful; none have borne a higher character for probity or refined professional honor. Having the acuteness—which, unfortunately, all lawyers do not possess—to discriminate between the promptings of obstinacy and the honest assertion of justice, with a sincere desire to discourage the one and support the other, they safely acted upon the principle of declining all causes whose institution was of doubtful propriety. They never suffered their minds to be tinged with the prejudices or petty resentments of their clients, and were always manly enough to rebuke, even in their friends, the vexatious spirit of litigation. It was, doubtless, their practice, in this particular, which suggested the compliment so often bestowed upon them, as exceptions to the supposed rule of their profession, that they gave honest advice, without reference to the foregone conclusions of those who asked it.

In the autumn of 1835, Mr. Woodson returned to Kentucky, and spent another session in the Law School of Transylvania University—then under the management of the Hon. George Robertson, chief-justice of Kentucky. Having graduated with honor, he sought again the field in which his laurels were to be won. But a short time had elapsed, however, before misfortune began to oppress him, in a manner hard to be borne. The health of his wife had been gradually impaired; and soon after his return to Illinois, it became evident that, if she would again visit the scenes of her childhood, and see the friends of her youth, no time was to be lost. In a scale containing such considerations as this, professional or political aspirations could have no weight. He at once set out for Kentucky, where, in August, 1836, the companion of his earlier years, and the mother of his only child,

breathed her last, amid the familiar scenes of her own and her husband's youth.

An event like this, always a deep affliction even to the most callous, to one full—as was Mr. Woodson—of all human and tender sympathies, was a blow at the foundation of happiness. For a considerable period he was wholly disqualified for the business of life. Time, however, the great healer of wounds, finally brought him relief; and, having mastered the gloom of his spirits, on the first day of November, 1838, he was again married, to Miss Julia Kennett, daughter of Dixon H. Kennett, Esq., formerly of Kentucky. It was not until the following winter that the obstacles and interruptions which had broken and impeded his progress were at last removed; and a career, which has been eminently honorable, was at last seriously commenced.

At the session of the legislature of 1838–9, he was elected to the office of state's attorney, to fill a vacancy in which he had recently been appointed by Governor Duncan. He continued to discharge the duties of his station until August, 1840, when he was elected, by the people of Greene county, to a seat in the legislature; a success which was the more flattering, from the fact, that it was obtained by a whig, in a county which usually give from four to five hundred democratic majority. Though strenuously opposed by the body of the dominant party, headed by their strongest men, he was elected by a handsome majority; and though the contest had been a bitter and virulent one, none, even of those who opposed the choice, ever oppugned the integrity and patriotism of the new legislator's course.

But the ways of politics were not the paths in which his nature best fitted him to walk—the violence of party contests was far from grateful to his quiet spirit; and his tastes were better gratified among the regulated scenes of his profession than in the bickerings of faction or the petty jealousies of office. In 1843, however, he was nominated by the whigs of the fifth district (of which Greene county forms a part) to a seat in Congress. But it was his fortune to be opposed by the Hon. Stephen A. Douglas, now so prominently before the people for the presidency. The great personal and political popularity of the latter carried him triumphantly through the contest; and Mr. Woodson, to the great joy of his true friends, was reserved for pursuits both more congenial and more useful.

In 1847, the people of Greene county, without distinction of party, elected him to a seat in the convention, called to amend the state constitution; and though men differ—and justly *may* differ—about the propriety of many provisions in the instrument then framed, it is due to Judge W. to say, that he opposed, with zeal and constancy, those features which have since been found most obnoxious. He strove especially, with many of the most enlightened members of that body, against the empiricism, which made the result of the convention—instead of a well-guarded but sufficiently liberal declaration of fundamental principles, as a constitution should be—a farrago of details, special enactments, doubtful experiments, and "penny-wise" economy. Unfortunately for the interests of the state, there was, in an assembly otherwise respectable enough, a combination of political tinkers—men who emerged from obscurity only to spoil what was good, and to

make worse what was already bad—and the consequence has been, that, in the opinion of a majority of the bar, the primary law of our state is, in tone and dignity, scarcely above the municipal regulations of a petty corporate town. Judge Woodson has reason to be thankful that the clearness of his views kept him free from all responsibility in the matter.

After his return from the convention, he devoted himself assiduously to his profession, until the autumn of 1848; when, upon the approach of the first judicial election under the new constitution, the general sentiment of the first circuit pointed to him as the most proper person to fill the post of circuit judge. It was naturally expected that the question would be made a political one; and, had it been so, the bench would have been occupied by a democrat—that party possessing a majority in the circuit of from ten to fifteen hundred.

In filling judicial offices, however, the people (whatever bitterness of political rancor may actuate them, in circumstances where such considerations are properly admitted) are always prepared to defend and protect their own best interests. It is of vital importance to the citizens of any country, that the laws should be faithfully and intelligently administered; and even the wisest enactments are worse than useless, unless executed with impartiality, consistency and ability. Bad laws may be rendered less injurious by able and merciful judges; while ignorant or corrupt officers may, and often do, extract oppression and injustice from wholesome regulations. In every view, then, it is indispensable that we fill the judicial offices of the country with the most competent men, of whatsoever political party they may be—a truth, in which the people of the first judicial circuit manifested their faith, on the occasion of which we are writing.

Though opposed by able men, backed by the sanction of a party convention, Mr. Woodson was triumphantly elected—a result which he owed to the conviction, since then so well justified, that independently of partisan considerations, he was eminently well qualified for the post to which he was elevated. Since that time, having become accustomed to the ermine, he has continued to the present day, discharging the (in the West) onerous and somewhat irregular duties of presiding judge of a populous district; and we but express the sentiment of the bar and of the country when we add, with high honor to himself and advantage to the people, over whose interests he has so much influence. Having at first no experience in his new functions, he adapted himself to them with a graceful vigor, which belongs only to minds peculiarly fitted for such effort, and he has gone on winning, year after year, "golden opinions from all sorts of men"—impressing even the hard critics of the bar with his independence, ability and impartiality. The character which he has thus secured for himself, though his life should close now, would be ample reward for years of labor, and a rich heritage to his children.

In all the stations which he has been called upon to fill, no word of reproach or suspicion has ever been cast upon his name. His firmness is equal to his integrity: and of all others, this is the quality most necessary to a judge who has to deal with the turbulent and free-speaking lawyers of the West. Patience, tempered by a watchful sense of

propriety—judgment, seasoned by many years of experience at the bar—and frankness, always ready to do justice to honest opinions, are among his most valuable characteristics. When we add to these the most untiring diligence in the examination and decision of questions submitted to his determination, we complete a character eminently worthy to be placed among the distinguished jurists of our country, and close, for the present, our notice of a life which gives rich promise of a long career of usefulness.

HON. GEORGE D. SHORTRIDGE,

OF MONTEVALLO, ALABAMA.

George D. Shortridge was born in the county of Montgomery, in the State of Kentucky, on the 10th day of November, 1814. His father, the late Hon. Eli Shortridge, a distinguished lawyer, judge and politician of that state, shortly after Alabama was admitted into the Union, removed to Tuscaloosa, then a frontier town. Here his son George, amidst the difficulties incident to a new country, with no fixed or very refined population, was placed at such schools as could be best obtained. He was, however, often interrupted in his progress by the want of experienced teachers, and still more by the limited pecuniary means of his father, who had been so unfortunate as to lose a handsome estate. The son very early perceived that his three sisters, two of whom, now no more, have been justly regarded as brilliant ornaments to the highly cultivated circles in which they moved, could not be educated without assistance from himself, or at least unless his father could be relieved from the expenses of his own education. He therefore accepted, when about fourteen years of age, a place in the office of the clerk of the Supreme Court, then in charge of Judge Henry Minor. Subsequently he entered the office of the secretary of state, at the solicitation of Col. James J. Thornton, who for some years held that important office. He likewise remained for some time in the book-store of Mr. D. Woodruff, where he imbibed and cultivated a passion for reading and literary pursuits.

Having thus, by his own frugality and industry, acquired the requisite funds, he was one of the first to enter as a student the Alabama University, at the beginning of that institution, in 1830. He soon signalized himself in this position with a few associates in founding and organizing the present flourishing Erosophic Society, and in addition to an enviable reputation with the professors, acquired a popularity, as universal as it was deserved, among his fellows. During the three years of his college life, his habits of morality and of study gave promise of future usefulness.

In the summer of 1833, with his friend and future brother-in-law, Burwell Boykin, he entered the office of his father as a student at law. Such, however, were his necessities, that he was precluded from a longer preparation than one year for the bar; and consequently applied and

was admitted to practice at the June term of the Supreme Court, 1834. The winter following, having never yet made his appearance in court as a practising attorney, he was elected by the legislature, for the term of four years, over several able competitors, solicitor of the eighth judicial circuit. He now removed to the city of Montgomery, and at once enlisted with zeal in the labors and responsibilities of his office, and of his profession. The bar, with whom he was thrown in contact, was composed of some of the most brilliant intellects of the state; among whom may be mentioned the present C. J. Dargan, Mr. Justice Goldthwaite, Col. John A. Campbell, and the two Thoringtons. Constantly doomed to struggle on an imposing arena, with such minds as these, it required all the energies, both physical and mental, of the young solicitor to sustain himself.

This he succeeded in accomplishing, insomuch as to acquire the respect not only of his brethren of the bar, but of the bench and of the people. Unfortunately, under the pressure of his official duties and private practice, his health, in the course of three years and a half, utterly failed him. In this interval he had been twice elected intendant of the town, twice a director in the branch bank, and served for one year as one of the directory in the Montgomery and West Point Rail-road. Having successively resigned all these places, and the solicitor's office, upon the urgent calls of the people he became, in the summer of 1838, one of the democratic candidates for the legislature. After an animated canvass, he, in conjunction with two whigs, the Hon. Henry W. Hillard and Wm. O. Baldwin, was returned. This success was attributable to his personal popularity, the political complexion of the county being decidedly adverse.

At the opening of the session of the legislature, Mr. Shortridge, with the late venerable Wm. Smith, of Madison, and the Hon. B. F. Porter, of Tuscaloosa, as his associates, was elected, on the part of the house, as the joint bank committee. It may be remarked that Mr. Shortridge, in his legislative career, mingled but seldom in debate or the angry contests of the house, though he gave his warm and efficient support to several of the most important bills of the session. When he did venture to speak, he always commanded the attention of the house, as well by his powers of reasoning as his occasional earnest eloquence.

In the succeeding summer canvass, Mr. Shortridge declined a reëlection mainly on account of his increasing ill health. His physicians advised him now to withdraw entirely from the labors and cares of his profession, and to retire into the country as the only means of speedy restoration to health. Accordingly, Mr. Shortridge, early in the year 1840, removed to a small farm near the residence of his father-in-law, in the county of Shelby. Here for two years he devoted his whole energies to the practical pursuits of agriculture, with occasional indulgence in reading and writing for some of the literary and agricultural publications. In the spring of 1842, he felt his health so much renovated, as to justify a return to his practice to a limited extent. By the death of his father, in 1843, then a circuit judge, his cares and responsibilities were so much increased as to compel his earnest and exclusive devotion to the law. He soon found himself surrounded by a full practice in his own and the adjoining counties.

In the winter of 1845, he was elected by the legislature a judge of the third judicial circuit, over several opponents, all of whom had either distinction at the bar or on the bench.

Four years after, when, by a change in the constitution of the state, the judges were to be chosen by the people, Judge Shortridge submitted his claims to the verdict of the voters of his circuit. One of his opponents was a lawyer of great experience and of high reputation, and the other had been in practice many years. The judge was sustained by a popular majority almost unequaled, leading his highest competitor nearly seventeen hundred votes.

This popularity is richly deserved; for the judge, whilst he is remarkable for his firmness, patience and courtesy, unites to virtues such as these a clear head and a sound heart; an independence of thought and action eminently adapted to his station; a stern administration of the criminal law—yet tempered with mercy, and a sense of justice, that seems quite intuitive. He has likewise acquired an enviable fame, particularly with the bar, for the strict impartiality with which he holds the judicial reins. His charges, too, have a clearness and compactness,—a force and occasional brilliancy, which lend a charm to the dull transactions of courts, rarely to be met with.

Judge Shortridge, in addition to his judicial and political reputation, has acquired an enviable position in the literary circles of his state. Besides many poetic gems, which have at times found their way into print, he has published some, and written more, upon subjects of permanent interest.

At the July session of the University of Alabama, in 1851, the degrees of A. B. and A. M. were conferred upon him by the trustees and faculty of that institution. Being at once admitted to membership in the alumni society, he was elected chairman of a select committee, upon whom devolved the duty of drafting an address to the people of the state in behalf of the university, and the cause of education. This address has deservedly attracted much attention, and has been of essential service in promoting educational purposes.

The judge, too, in the midst of his other engagements, has been at the head of the great moral movement, the temperance reform in his state. Like his compeers, Dillahunty, of Tennessee, O'Neal, of South Carolina, and Lumpkin, of Georgia, he has labored arduously, and with telling effect, to advance that important cause. Perhaps upon this field of his eloquence, generally regarded as trite, no man has displayed more learning than he.

The judge devotes much of his time to agricultural pursuits. His orchards and fruits, his vineyards and stock, and the general improvements on his farm, are sources of both health and pleasure. He has made himself practically a farmer, not only by actual labor, but by the study of the ingredients of soils, and the best modes of retaining or advancing their fertility.

HON. WILLIAM B. McCLURE,

OF PENNSYLVANIA,

President judge of the fifth judicial district of Pennsylvania, composed of Alleghany county, was born at Willow Grove, near Carlisle. He is the youngest son of Charles McClure and Rebecca his wife, and only brother of the late Hon. Charles McClure.

At an early age he removed to Pittsburgh, studied law, and was admitted to practice under the tuition of the late Justice Kennedy, of the Supreme Court of Pennsylvania.

In January, 1851, he was nominated by Governor William F. Johnston, and confirmed by the Senate, president judge of the Court of Common Pleas of the fifth judicial district of Pennsylvania, and commissioned for ten years.

In conformity with the provision of the constitution of Pennsylvania, an amendment of that instrument, providing for an elective judiciary, was submitted to the people and carried by a large majority, in October, 1850, and all commissions then in force expired on the first Monday of December, 1851.

The whig convention of Alleghany county that met for nominations in June, 1851, nominated William B. McClure by acclamation their candidate for president judge of the Common Pleas, and in October he was elected by a large majority. This judicial district embraces two large cities and a densely settled rural population, besides a number of boroughs. The amount of business coming under its jurisdiction is vast and multifarious—is more fraught with responsibility, and demands more energy and industry than any judicial station in Pennsylvania—there being but one law-judge in the Common Pleas in Alleghany county, whilst in other populous districts there are two or more.

Among other duties of this court, devolves the granting of licenses to sell spiritous or vinous liquor by less measure than a quart. It is well known that in large cities the patronage and power of granting or withholding licenses of this sort is a species of political omnipotence, if unscrupulously used; and the combined political influence of grog-shops has been deemed decisive of local and municipal elections.

These places of resort in the two cities, of Pittsburgh and Alleghany, were not much under a thousand in number. The power of granting these licenses is vested exclusively in the Court of Common Pleas. The period of the year for entertaining petitions, and deciding them, was March and June, 1851, on the eve of judicial nominations and elections. A prodigal dispensation of favors, by granting licenses, would have ensured the court this enormous political support, and the withholding of them its combined and savage political opposition.

Here was an ordeal of virtue, a potency of temptation, and a test of moral courage, to which few men have ever been subjected.

The constitution was amended, the judges elective, and the first election was just pending. According to all human calculation the court held its own election in its own hands, and its success or defeat depended on the use it should make of the enormous power and patronage it held in its own hands.

When the time for the consideration of licenses came on, so strictly and stringently did the court interpret and apply the license laws, that but one license was granted, where his predecessors in office, with no temptations under their legal interpretation, had granted five.

This raised a storm at once, which soon became a second western whiskey insurrection. Indignation meetings were held, resolutions passed and printed—dealers, great and small, considered their rights trampled on—they formed a permanent combination, with their president, treasurer, &c., and organized an active and unrelenting opposition to the court.

After this belligerent demonstration, many, whose applications had been rejected at March term, renewed them at June term. But these renewals met the same fate. This rigid interpretation and enforcement of the license laws, and the hostile demonstrations that followed, constrained some of the best friends of the court to interpose their remonstrances, as this course would insure its own defeat; but they were answered—

"That if it cost the court its nomination, its commission, and its "head, it should do as it had done. That the court could afford to be "honest and fearless at its own expense, when the cost and the conse-"quence fell on itself, but that it could not afford to act otherwise when "the evil consequence would be visited upon his fellow-citizens, wo-"men and children, widows and orphans; that as his discharge of duty "was likely to cost him political sacrifice, he would strive to merit the "martyrdom."

HON. THOMAS A. WALKER,

OF ALABAMA.

Thomas A. Walker was born January 5th, 1811, in Jasper county, Georgia. He was the eldest son of a respectable planter, who, by his industry and energy, had accumulated a competent fortune. His father's opportunities of intellectual improvement had been limited, yet his native powers of mind being vigorous and active, he could well appreciate the advantages of knowledge, and happily determined that his sons should acquire a thorough and systematic education. The subject of this sketch was, at the usual age, sent to the common schools of his native state, where he remained until 1822, when his father removed to Shelby county, Alabama. The facilities of education, at that day, in this state, were extremely meagre. The teachers were imperfectly qualified for their task, knowing "little Latin and less Greek." Nevertheless, Thomas A. found means to prepare himself for college.

In his eighteenth year he entered the freshman class of Cumberland College, at Princeton, Kentucky. Here he remained two years, when he joined the junior class of the university of Alabama, at Tuscaloosa, where he completed his collegiate course in 1833.

Among his classmates at the university, whom their *alma mater* may be proud to own as her sons, we may mention A. B. Meek, who has

since distinguished himself in the field of Southern literature, and who is justly regarded as the most finished *belles-lettres* scholar of Alabama; George D. Shortridge, one of the Circuit Court judges of the state; William R. Smith, formerly on the Circuit Court bench, but now a member of Congress from the 4th congressional district. Judge Smith commenced life as a *litterateur*, and attained some distinction as a writer of poetry and tales, but soon had the good sense to abandon these pursuits for the more profitable, if less congenial, field of law.

The intense application and perseverance, which have since characterized all his undertakings, soon enabled Mr. Walker to overcome the deficiencies of an imperfect preparatory course, to outstrip those whose early advantages had been greatly superior, and to take and maintain a high grade in all the studies of the university. At this period of life even, he manifested a laudable ambition not to be excelled by any with whom he came in competition.

Having early exhibited a predilection for the legal profession, he, immediately after leaving the university in 1833, commenced reading law with Chancellor Crenshaw, of Butler county. In Alabama, no particular time is required to be spent in a lawyer's office before the student can make application for admission to the bar. Any person on producing a certificate of good moral character, is examined in open court; and if found qualified, duly licensed to practice as an attorney and counsellor at law. After reading about a year in the office of Chancellor Crenshaw, Mr. Walker, who sustained a very creditable examination, was admitted to the bar. During this brief period, by close study, aided by his naturally strong and well-disciplined mind, and the judicious counsel of his able instructor, he had acquired a fair knowledge of the elementary principles of jurisprudence.

He immediately settled at Elyton, in Jefferson county, Alabama, and commenced the practice of his profession. Unlike many young men who, when they are enrolled on the list of attorneys, throw aside the black-lettered folio for the fascinating novel, the seductive pleasures of fashionable society, or other less innocent species of dissipation, and thus sink into inglorious obscurity, Mr. Walker, after his admittance to the bar, suffered no relaxation in his efforts to become a master of the profession which he loved. He carried the habits and diligence of the student into the office of the lawyer, and commenced a systematic course of reading, which he has continued until the present time. He thus began to lay the basis of future eminence in a solid and scientific method. He knew that the law was a jealous mistress, and would suffer no rival in her affections. Unlike many young lawyers, too, he was not doomed to struggle with poverty and obscurity in the earlier periods of his professional career. The steps to eminence in the legal profession are generally steep and rugged—the path to the cliffs of fame slow and toilsome: many faint by the way, droop, relax their efforts, as new difficulties rise before them, and perish. But Mr. Walker's close attention to business, his indomitable energy, the thorough preparation of the causes intrusted to his care, the skill and ability which even then he exhibited before the court and jury, and his familiar intercourse with the people, secured from the start a comparatively large and lucrative practice. We do not know that he made any

striking or brilliant display of forensic power at this time; and so far as our own observation has extended, we are disposed to regard all such accounts as either fabulous or greatly exaggerated. The effect produced by Patrick Henry's eloquence, in the celebrated *parson's cause*, may be an exception, but that case stands solitary and alone. No novice, whatever may be his genius or learning, is a match for an old and experienced lawyer of far inferior mental power. There is a tact in the successful management of a cause, which no learning or talent can bestow, and which must be acquired only by a long and varied practice.

In 1835, he was elected brigadier-general over the then senator of Jefferson county. The contest was animated, and even bitter, and his success a proof of the confidence which the people already began to manifest in his capacity for public affairs. "In these piping times of peace," the office of brigadier-general is almost a sinecure; and the only fact connected with the military life of General Walker, as we may now style him, worthy of note, is the following, which, if not evidence of strategic skill, yet shows that energy of character, which, in the less stirring scenes of civil life, has contributed so largely to his success and usefulness. In 1836, the Creek war broke out. The governor of Alabama issued his orders to General W. to raise a battalion of mounted men, and march against the hostile Indians. The order issued from head-quarters, at Montgomery, and was conveyed by express to General W. at Elyton, over one hundred miles distant. After receiving it, he called together each regiment, in six large counties, composing his brigade; obtained the requisite number of volunteers; had them equipped, mounted, organized, and marched them two hundred miles, to the seat of war, in *eleven* days from the date of the order. The battalion was mustered into the United States service by General Jessup, who highly complimented the young officer for this unusual promptness and celerity. The next day the forces marched against the Indians, when about eleven hundred surrendered themselves as prisoners, and the main body disbanded and dispersed. "The war was thus ended without any regular engagement, and the volunteers returned to their homes without the loss of a single man." We may here mention another incident which indicates his fondness for the "tented field"—that at the commencement of hostilities between our government and Mexico. A call was made upon Alabama, through her governor, for a regiment of volunteers. General Walker, though then engaged in a very extensive and profitable practice, immediately raised a company, of which he was elected captain, and offered his services to the governor; which offer was not accepted, as the regiment was already complete.

But to return. In 1836, he was elected by the legislature solicitor of the 9th judicial circuit, which was then first created, having been, until recently, in the occupancy of the Creeks and Cherokees. His competitors for that office were Felix G. McConnell, who afterwards represented the 7th district in Congress—a man of brilliant but eccentric intellect, who closed a somewhat eventful life in Washington by his own hand; George W. Stone, since one of the circuit court judges of the state; and H. A. Rutledge, a gentleman of fortune, of cultivated taste and man-

ners, who soon abandoned the drudgery of the legal profession for the elegant leisure of the planter. After his election to the office of solicitor, he married, on the 31st August, 1836, Miss Sarah M. McGehee, daughter of Col. Wm. McGehee, of Benton county, formerly of Virginia. He then removed to Jacksonville, where he has since resided.

The counties composing the 9th circuit were settled by those hardy pioneers who followed closely on the receding track of the Indian. There was then little of "pomp and circumstance" in the administration of justice. The court-houses were log cabins; and lawyers, parties, jurors, witnesses and spectators were intermingled in most admirable confusion. The taverns were of the lilliputian order. A private room was an unheard of novelty, and no one but the judge ever dreamed of having a private bed. The lawyers rode the circuit on horseback, the only practicable mode of conveyance. Their arrival at the different court-houses created as much of a sensation as that of a menagerie. It must be confessed, that there were among them some queer specimens of animated nature. They were generally *young* men; many of them well educated, who had left the refinements of their native states, under that universal belief, that a new country is the place to make a fortune and rise to eminence; while, in fact, they are there likely to encounter more talent and numbers in proportion to the business than in the populous cities of the Atlantic states. When assembled on the circuit, the lawyers of the 9th were always disposed to have a jollification; fun and frolic ruled the hour. The nights were spent in uproarious conviviality, for many were addicted to "vinous potations;" an example not unfrequently set them by the highest authority: to wit, the judge himself. Many brilliant intellects were clouded, and their suns went down at mid-day by this fatal indulgence. Gen. Walker, although entering keenly into all the social pleasures of his professional brethren, and contributing his full quota of fun and anecdote to the general entertainment, never took deep draughts of the "black waters of death and Acheron," and, if not entirely abstinent, was always strictly temperate. He found the duties of solicitor, together with the civil practice which fell to his share, sufficiently arduous to occupy his whole time and attention. In criminal trials, the entire talent and learning of the bar were commonly arrayed on the side of the defendant. The sympathies of the jury and judge leant in the same direction. In newly-settled countries, crimes and misdemeanors are not looked upon with the same stern, cold eye, as in older portions of the Union. To contend, single-handed, against such odds, required powers of no ordinary kind. Yet we may safely say, that in no contest did the interests of the state suffer in the hands of her solicitor. He soon acquired the reputation of an energetic, vigilant and able prosecuting officer, which continually increased with his age and experience. Every indictment was subjected to the closest scrutiny. If defects existed, they were certain of being discovered. Motions to quash in arrest of judgment, demurrers, pleas in abatement, are the ordinary weapons with which to fight a bad case through court. This was a severe but useful school to the young advocate; and to the discipline thus acquired may be traced that accuracy in pleading, and minute knowledge of forms and practice, for which he was subsequent-

ly distinguished. The sole responsibility of important criminal causes being thrown upon his hands, gave him that self-reliance and fertility of expedient to meet sudden and unforeseen exigencies so important in the character of the successful lawyer.

In 1839, he was strongly solicited by a number of the citizens of Brenton county to become a candidate for a seat in the house of representatives of the Alabama legislature. He consented; and was elected by a large majority—re-elected in 1840, and also in '41. In the session of '41, he was made chairman of the judiciary committee. In 1842, he was elected to the senate, and held a seat in that body during the years '42, '43 and '44; the last two years of which he was also chairman of the judiciary committee of the senate. While he was a member of the legislature, he took an active part in all the measures before the house and senate, participated in most of the important debates, and was looked upon as one of the leading members of the democratic party.

After the close of the session of 1844, he declined being again a candidate, in order that he might devote his time exclusively to the practice of his profession. He was now employed in most of the important causes, civil and criminal, on the circuit, and was reaping a rich harvest, not only of fame, but money. In a few years he succeeded in amassing a handsome fortune from his practice.

The best evidence of merit, at least in our country, is success. The door to distinction and fortune is thrown wide open to all. No accident of birth or favorable combination of circumstances can, for any length of time, enable the undeserving to maintain the vantage ground. Particularly is this true of the legal profession. Here, "the battle is to the strong, and the race to the swift" and the vigilant. It is no field for quackery, and no charlatanism can be successful. The people can soon judge between the sound lawyer and the shallow pretender; consequently there is no better profession for those possessing talent and perseverance. No young lawyer of learning and genius need despair, however dark the clouds that overshadow the early periods of his career. Let him "bide his time." If he has the right stuff in him, it will be sure to show itself. If success be the true criterion of merit—and we are inclined to think it as good as any—General Walker is entitled to a high rank on the list of eminent American lawyers; for few, we imagine, from a country practice, have reaped larger emoluments in the same length of time.

In 1847, he was elected judge of the 5th judicial circuit by the legislature. In 1849, the constitution of Alabama was altered, and the election of judges given to the people of the several circuits. The office conferred upon him by the legislature was thus vacated, and he became a candidate before the voters of his circuit. The result was decidedly flattering, and a sure evidence of the high estimate placed upon his qualifications, as he received a majority of four thousand two hundred and fourteen votes over his opponent, a gentleman of popular address, and possessed of great tact and skill in electioneering.

We have thus presented an outline of the life of Judge Walker. Though not passed in those stirring scenes, or abounding in startling events that attract the gaze of the multitude, it affords a good example

of the success which awaits unwearied diligence in the pursuit and practice of a useful profession.

The characteristics of his mind are comprehensiveness and strength. He has a clear perception of the leading points of a subject, and to those points he directs all his energies. More intent on ideas than words, he never declaims, and rarely attempts to captivate the imagination of his hearers by the embellishments of fancy and rhetorical ornament. His speeches are close chains of reasoning—logical, methodical, and directly to the point. His style of speaking is well adapted to the taste of an American audience at the present time. They are fond of the utilitarian rather than the beautiful. There is little taste for the Asiatic gorgeousness of Burke and his imitators. Our audiences delight rather in the searching analysis, the familiar illustration, the terse and the *piquant*. Musical sentences and beautiful metaphors have no effect on the minds of a practical jury. Judge Walker is less vehement than the majority of southern orators, who are too much given to the fault of "tearing a passion to tatters, to split the ears of the groundlings." Yet we have seen him, when the occasion required, impassioned and eloquent, and also wield the keen weapons of sarcasm and invective with a dexterous hand.

We have thought some of his efforts on the "stump," during his political campaigns, particularly happy. The "sovereigns" were always kept in a good humor by his wit and anecdotes, as well as interested by the plain and practical views which he always took of the subject under discussion. "Stump speaking" is indigenous to the South and West; an art *sui generis*, requiring for its successful exercise intellectual powers of a peculiar and rare order. But the limits of this article will not permit us to enter upon the subject.

As an advocate, he was always thoroughly prepared both in the law and facts of his cases; an adept in the examination of a stupid or stubborn witness; cool and wary; never thrown off his guard, or losing his self-possession. Skilled in the knowledge of human nature, he well knew how to adapt his arguments to the feelings, passions and prejudices of the jury. He was also particularly well versed in the science of pleading, and unusually accurate in all the details of practice. He rarely lost a cause when there was the remotest chance of gaining it.

Politically, he is a democrat of the "strictest faith"—a state rights' republican of the Jeffersonian school; although, since his elevation to the bench, he has taken no active part in advancing the interests of his party, believing it incompatible with his judicial position to mingle in the bustle of political strife.

He is well read in the principles of government, the history of parties, and the theories of political economists. In fact, outside of his profession his reading has been almost entirely in this direction. He peruses a work on political economy or a volume of reports with as much zest as an ordinary reader would the most fascinating novel. This affords a good index of his mind, fond of the solid rather than the ornamental, loving the actual more than the ideal, the useful than the beautiful. His mind may be compared to an edifice—massive, well proportioned, inspiring ideas of strength and solidity, with few decorations, and no fantastic ornaments, of the Doric—not the Corinthian order.

As a citizen, he is public-spirited and liberal,—ever ready to assist with his counsel and purse in all works of public utility or benevolence; to aid in all those schemes that will advance the prosperity of the state. A few years since, a gigantic conspiracy was set on foot to defraud the Bank of the State of Alabama and its branches; it came very near being successful. Judge Walker took an active part in ferreting out and forestalling this fraudulent scheme. He rode several hundred miles, and devoted weeks of labor to the work, although he had no greater interest in the matter than any other good citizen. Through his exertion and that of others, the conspiracy was defeated, and thousands of dollars saved to the state.

He has also taken a deep interest in the different systems of internal improvements calculated to develop the resources of Alabama, and is a large stockholder in the Alabama and Tennessee River Rail-road. Although not a member of any communion, he contributes liberally to the support of religion. He is ready to assist in the cause of education, particularly of that which will advance the character of the legal profession, and secure a high standard of attainment among its members. He has twice been elected a trustee of the state university, and since his elevation to the bench, has gratuitously instructed a class of law students, spending an hour or two each day in their examination, and in explaining and illustrating the principles of jurisprudence, for which duty his well stored mind furnishes ample materials.

In his intercourse with society he is affable, familiar, and easily approached. There is nothing of *hauteur* or assumed dignity in his demeanor. Plain in his deportment, he mingles with his fellow citizens on terms of perfect equality. There are few more interesting or agreeable companions, as his conversation is instructive, racy and entertaining; fond of wit, anecdote and repartee in others, he is also quite an *expert* in their use himself.

He has written little for publication. A few of his speeches, while a member of the legislature, have been preserved, and furnish good evidence of the statesman and orator. Occasionally, too, a political article has appeared from his pen in one of the newspapers of the day, on some passing subject in which he felt an unusual interest. But his attention has been too much engrossed in professional pursuits to allow much time to be devoted to literary effort.

He carried to the bench the profound learning acquired during the preceding years of laborious study and practice at the bar. He is familiar not only with the leading principles of jurisprudence but with the adjudicated cases, both English and American, which illustrate their principles and apply them to the practical business of life. Consequently, his decisions have given great satisfaction to the bar and the country, and have been generally acquiesced in; though, of course, he has sometimes been reversed by the Supreme Court, as it is impossible for any judge, however learned, to decide correctly every question raised in the hurry and bustle of a nisi-prius trial, when there is little time for reflection or an examination of authorities. He is emphatically a working judge. His extensive knowledge of jurisprudence, and methodical habits of thought, give him great facility in the dispatch of business, a quality not always possessed by the courts of Alabama,

and one a little difficult to exercise in a portion of the 5th circuit, where the lawyers are noted for litigating *everything*, and an "unbounded capacity" for making speeches. A judge, however, may carry this virtue of dispatching business quickly to excess; as it was said Lord Brougham did, when Chancellor of England. We do not, however, think this is the case with Judge Walker, but he suffers no useless wranglings in applications for continuances, motions for new trials, or after a point has been once decided. Punctual himself, he expects parties, lawyers, witnesses and jurors to be so likewise. When a case is called, he requires that the lawyers engaged in it shall know whether they are ready for trial, or not. If a case is not finished, he sits until a late hour in the night, a practice which is by no means looked upon as a matter of course in Alabama.

In his deportment towards the bar, he is dignified and courteous. He has never had any serious difficulty or misunderstanding with a lawyer since he presided on the bench. He is particularly kind and indulgent to young advocates on their "first appearance" in court. This is one of the most trying situations in which a man can be placed, and where he most needs the sympathy of the bench and bar, which he does not always obtain. Impatience or inattention from the bench is sure to increase the embarrassment of the novice, and he not unfrequently sits down vexed and mortified at his failure. A word of encouragement at such a time is a word fitly spoken. This, Judge Walker is sure to speak, and to listen attentively to the unfledged efforts of the *debutant*, though his remarks may be stupid, unconnected, and have little bearing on the point at issue. This trait in his character shows the kindness of his heart, which many will long remember.

His charges to the jury are delivered in plain and unambitious language, which they can well understand, and which enables them to comprehend distinctly the points they have to decide. There is no parade of learning, no high-sounding phrases, but all is easy, familiar, conversational.

He administers the criminal law with firmness, though without undue severity. If a lawyer believes his client to be innocent, he is willing to have him before Judge Walker; if, on the contrary, he entertains rather serious doubts on that point, he is generally disposed to take the chances of a continuance.

In Alabama, the circuit court judges are required to alternate, so as not to hold the courts of their own circuit but once a year. Judge Walker has consequently presided in most of the counties of the state, and has drawn forth the highest encomiums from the bar, who, in their resolutions, always speak in the most complimentary terms of his urbanity, learning, and celerity in dispatching business, in clearing the docket of old litigated cases, which have encumbered it "time whereof the memory of man runneth not to the contrary." We may then safely assert that, as a judge, he is popular with the bar and people throughout the state.

In person Judge Walker is of the middle size, of the sanguine bilious temperament—the temperament which gives perseverance, energy, and great capacity for intellectual labor. He possesses a sound and

vigorous constitution, which has never been impaired by excess or dissipation. In a profession so exhausting to the mental and physical energies as that of the law, a sound body is as indispensable to success as a sound mind, or rather the latter cannot exist without the former. The brain, if much exercised, requires a large supply of healthy blood, and this can only be supplied by the perfect digestion of a reasonable amount of healthy food. Judge Walker, though by no means addicted to excess in the luxuries of the table, for his taste is plain and simple, has yet had the good sense not to turn anchorite, and live on bran-bread and saw-dust pudding. His head is well developed, particularly in the intellectual region, and the animal portion of the brain sufficiently so to give edge and activity to the mental powers. There is no one organ deficient or unusually prominent. The phrenologist would, however, be struck with the ample space occupied by the organs of causality and comparison, which accords well with his character. By temperance, and a careful observance of the organic laws, he has preserved a youthful appearance, and looks at least five years younger than he really is. He dresses plainly, but neatly; though we suspect he is something careless of his personal appearance. But we must bring this outline of his character to a close. There are many private traits which we have necessarily omitted, because we cannot speak of the living as of the dead. We know that our sketch is imperfect: it is difficult to paint the likeness of the simplest character; but "what is writ, is writ."

Now in the prime of manhood, known and respected throughout the state, of unquestioned integrity, possessing a vigorous and well-stored mind, and a life marked by the faithful discharge of every duty, public and private, there is no station, however elevated, within the gift of the people of Alabama, which he may not reasonably aspire to fill.

HON. S. S. PRENTISS.*

[FROM THE MANUSCRIPT OF A MEMBER OF THE BAR OF THE SOUTHWEST.]

AN EXTRACT.

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The character of the bar, in the older portions of the state of Mississippi, was very different from that of the bar in the new districts. Especially was this the case with the counties on and near the Mississippi River. In its front ranks stood Prentiss, Holt, Boyd, Quitman, Wilkinson, Winchester, Foote, Henderson, and others.

It was at the period first mentioned by me, in 1837, that Sergeant S. Prentiss was in the flower of his forensic fame. He had not, at that time, mingled largely in federal politics. He had made but few

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* We gladly depart so far from the plan originally given, as to insert the following sketch of the late Hon. S. S. Prentiss, of Mississippi.

enemies; and had not "stated his presence," but was in all the freshness of his unmatched faculties. At this day it is difficult for any one to appreciate the enthusiasm which greeted this gifted man, the admiration which was felt for him, and the affection which followed him. He was to Mississippi, in her youth, what Jenny Lind is to the musical world, or what Charles Fox, whom he resembled in many things, was to the whig party of England in his day. Why he was so, it is not difficult to see. He was a type of his times, a representative of the qualities of the people, or rather of the better qualities of the wilder and more impetuous part of them. The disproportion of young men (as in all new counties) was great, and the disproportion of wild young men was, unfortunately, still greater.

He had all those qualities which make us charitable to the character of Prince Hal, as painted by Shakspeare, even when our approval is not fully bestowed. Generous as a prince of the royal blood, brave and chivalrous as a knight templar, of a spirit that scorned every thing mean, underhanded, or servile, he was prodigal to improvidence, instant in resentment, and bitter in his animosities, yet magnanimous to forgive when reparation had been made, or misconstruction explained away. There was no bitterness about him. Even towards an avowed enemy he was open and manly, and bore himself with a sort of antique courtesy and knightly hostility, in which self-respect mingled with respect for his foe, except when contempt was mixed with hatred; then no words can convey any sense of the intensity of his scorn, the depth of his loathing. When he thus outlawed a man from his courtesy and respect, language could scarce supply words to express his disgust and detestation.

Fear seemed to be a stranger to his nature. He never hesitated to meet, nor even to wait for, "responsibility," but he went in quest of it. To denounce meanness or villainy, in any and all forms, when it came in his way, was with him a matter of duty, from which he never shrunk; and so to denounce it as to bring himself in direct collision with the perpetrator or perpetrators, (for he took them in crowds as well as singly,) was a task for which he was instant in season or out of season.

Even in the vices of Prentiss, there were magnificence and brilliancy imposing in a high degree. When he treated, it was a mass entertainment. On one occasion he chartered the theatre for the special gratification of his friends,—the public generally. He bet thousands on the turn of a card, and witnessed the success or failure of the wager with the nonchalance of a Mexican monte-player, or, as was most usual, with the light humor of a Spanish muleteer. He broke a faro-bank by the nerve with which he laid his large bets, and by exciting the passion of the veteran dealer, or awed him into honesty by the glance of his strong and steady eye.

Attachment to his friends was a passion. It was a part of the loyalty to the honorable and chivalric sub-soil of his strange and wayward nature. He never deserted a friend. His confidence knew no bounds. It scorned all restraints and considerations of prudence or policy. He made his friends' quarrels his own, and was as guardful of their reputation as of his own. He would put his name on the back of their

paper, without looking at the face of it, and give his *carte blanche*, if needed, by the quire. He was above the littleness of jealousy or rivalry; and his love of truth, his fidelity and frankness, were formed on the antique models of the chevaliers. But in social qualities he knew no rival. These made him the delight of every circle; they were adapted to all, and were exercised on all. The same histrionic and dramatic talent that gave to his oratory so irresistible a charm, and adapted him to all grades and sorts of people, fitted him, in conversation, to delight all men. He never staled, and never flagged. Even if the fund of original capital could have run out, his originality was such, that his supply from the perennial fountain within was inexhaustible.

His humor was as various as profound—from the most delicate wit to the broadest farce, from irony to caricature, from classical allusion to the verge (and sometimes beyond the verge) of coarse jest and Fallstaff extravagance; and no one knew in which department he most excelled. His animal spirits flowed over like an Artesian well, ever gushing out in a deep, bright, and sparkling current.

He never seemed to despond or droop for a moment: the cares and anxieties of life were mere bagatelles to him. Sent to jail for fighting in the court-house, he made the walls of the prison resound with unaccustomed shouts of merriment and revelry. Starting to fight a duel, he laid down his hand at poker, to resume it with a smile when he returned, and went on the field laughing with his friends, as to a pic-nic party. Yet no one knew better the proprieties of life than himself—when to put off levity, and treat grave subjects and persons with proper respect; and no one could assume and preserve more gracefully a dignified and sober demeanor.

His early reading and education had been extensive and deep. Probably no man of his age, in the state, was so well read in the ancient and modern classics, in the current literature of the day, and (what may seem stranger) in the sacred scriptures. His speeches drew some of their grandest images, strongest expressions, and aptest illustrations from the inspired writings.

The *personnel* of this remarkable man was well calculated to rivet the interest his character inspired. Though he was low of stature, and deformed in one leg, his frame was uncommonly athletic and muscular; his arms and chest were well formed, the latter deep and broad; his head large, and a model of classical proportions and noble contour. A handsome face, compact brow, massive and expanded, eyes of dark hazle, full and clear, were fitted for the expression of every passion and flitting shade of feeling and sentiment. His complexion partook of the bilious rather than the sanguine temperament. The skin was smooth and bloodless—no excitement or stimulus heightened its color; nor did the writer ever see any evidence in his face of irregularity of habit. In repose, his countenance was serious and rather melancholy—certainly somewhat soft and quiet in expression, but evidencing strength and power, and masculine rather than the light and flexible qualities which characterized him in his convivial moments. There was nothing affected or theatrical in his manner, though some parts of his printed speeches would seem to indicate this. He was frank and artless as a child; and

nothing could have been more winning than his familiar intercourse with the bar, with whom he was always a favorite, and without a rival in their affection.

I come now to speak of him as a lawyer.

He was more widely known as a politician than a lawyer, as an advocate than a jurist. This was because politics form a wider and more conspicuous theatre than the bar, and because the mass of men are better judges of oratory than of law. That he was a man of wonderful versatility and varied accomplishments, is most true; that he was a popular orator of the first class is also true; and that all of his faculties did not often, if ever, find employment in his profession, may be true likewise. So far he appeared to better advantage in a deliberative assembly or before the people, that there he had a wider range and subjects of a more general interest, and was not fettered by rules and precedents; his genius expanded over a larger area and exercised his powers in greater variety and number. Moreover, a stump speech is rarely made chiefly for conviction and persuasion, but to gratify and delight the auditors, and to raise the character of the speaker. Imagery, anecdote, ornament, eloquence and elocution, are in better taste than in a speech at the bar, where the chief and only legitimate aim is to convince and instruct.

It will always be a mooted point among Prentiss's admirers as to where his strength really lay. My own opinion is that it was as a jurist that he mostly excelled; that it consisted in *knowing and being able to show to others what was the law.* I state the opinion with some diffidence, and, did it rest on my own judgment alone, should not hazard it at all. But the eminent chief-justice of the high court of errors and appeals of Mississippi thought that Prentiss appeared to most advantage before that court; and a distinguished judge of the Supreme Court of Alabama, who had heard him before the chancellor of Mississippi, expressed to me the opinion that his talents shone most conspicuously in that forum. These were men who could be misled from a fair judgment of a legal argument by mere oratory, about as readily as old Playfair could be turned from a true criticism upon a mathematical treatise, by its being burnished over with extracts from fourth-of-July harangues. Had brilliant declamation been his only or chief faculty, there were plenty of his competitors at the bar, who, by their learning and powers of argument, would have knocked the spangles off from him, and sent his cases whirling out of court, to the astonishment of hapless clients who had trusted to such fragile help in times of *trial.*

It may be asked how is this possible? How is it consistent with the jealous demands which the law makes of the ceaseless and persevering attention of her followers as the condition of her favors? The question needs an answer. It is to be found somewhere else than in the unaided resources of even such an intellect as that of Sergeant Prentiss. In some form or other Prentiss *always was* a student. Probably the most largely developed of all his faculties was his memory. He gathered information with marvelous rapidity. The sun-stroke that makes its impression upon the medicated plate is not more rapid in transcribing, or more faithful in fixing its image, than was his perception in taking cognizance of facts and principles, or his ability to retain them. Once

fixed, the impression was there forever. It is true, as Mr. Wirt observed, that genius must have materials to work on. No man, how magnificently soever endowed, can possibly be a safe, much less a great lawyer, who does not understand the facts and law of his case. But some men may understand them much more readily than others. There are labor-saving minds as well as labor-saving machines, and Mr. Prentiss had one of them. In youth, he had devoted himself with intense application to legal studies, and had mastered, as few men have done, the elements of the law and much of its text book learning. So acute and retentive an observer must, too, (especially in the freshness and novelty of his first years of practice,) "have absorbed" no little law as it floated through the court-house, or was distilled from the bench and bar.

But, more especially, it should be noted that Mr. Prentiss, until the fruition of his fame, was a laborious man, even in the tape-string sense. While the world was spreading wild tales of his youth, his deviations, though conspicuous enough while they lasted, were only occasional, and at long intervals, the intervening time being occupied in abstemious application to his studies. Doubtless, too, the supposed obstacles in the way of his success were greatly exaggerated, the vulgar having a great proneness to magnify the frailties of great men, and to *lionize* genius by making it independent, in its splendid achievements, of all external aids.

With these allowances, however, truth requires the admission that Mr. Prentiss did, when at the seat of government, occupy the hours, usually allotted by the diligent practitioner to books or clients, in amusements not well suited to prepare him for those great efforts which have indissolubly associated his name with the judicial history of his state.

As an advocate Mr. Prentiss attained a wider celebrity than as a jurist. Indeed, he was more formidable in this than in any other department of his profession. Before the Supreme, or Chancery, or Circuit Court, upon the law of the case, inferior abilities might set off, against greater native powers, superior application and research; or the precedents might overpower him; or the learning and judgment of the bench might come in aid of the right, even when more feebly defended than assailed. But what protection had mediocrity, or even second-rate talent, against the influences of excitement and fascination, let loose before a mercurial jury, at least as easily impressed through their passions as their reason? The boldness of his attacks, his iron nerve, his adroitness, his power of debate, the overpowering fire (broadside after broadside) which he poured into the assailable points of his adversary, his facility and plainness of illustration, and his talent of adapting himself to every mind and character he addressed, rendered him, on all debatable issues, next to irresistible. To give him the conclusion was nearly the same thing as to give him the verdict.

In the examination of witnesses he was thought particularly to excel. He wasted no time by irrelevant questions. He seemed to weigh every question before he put it, and see clearly its bearing upon every part of the case. The facts were brought out in natural and simple order. He examined as few witnesses, and elicited as few facts as he could safely get along with. In this way he avoided the danger of dis-

crepancy, and kept his mind undiverted from the turning propositions in the case. The jury were left unwearied and unconfused, and saw, before the argument, the bearing of the testimony.

He avoided, too, the miserable error into which so many lawyers fell, of making every possible point in a case, and pressing all with equal force and confidence, thereby prejudicing the mind of the court, and making the jury believe that the trial of a cause is but running a jocky race.

He chose rather to reserve in his own favor even doubtful points, when he believed he could get along without serious danger, thus securing the case against reversal if he gained it, and securing the chance of reversal if he lost it.

In arguing a cause of much public interest, he got all the benefit of the sympathy and feeling of the by-standers. He would sometimes turn towards them in an impassioned appeal, as if looking for a larger audience than court and jury; and the excitement of the outsiders, especially in criminal cases, was thrown with great effect into the jury-box.

Mr. Prentiss was never thrown off his guard, or seemingly taken by surprise. He kept his temper; or, if he got furious, there was "method in his madness."

He had a faculty in speaking I never knew possessed by any other person. He seemed to speak without any effort of the will. There seemed to be no governing or guiding power to the particular faculty called into exercise. It worked on, and its treasures flowed spontaneously. There was no air of thought—no elevation, frowning, or knitting of the brows—no fixing up of the countenance—no pauses to collect or arrange his thoughts. All seemed natural and unpremeditated. No one ever felt uneasy lest he might fall; in his most brilliant flights, "the empyrean heights" into which he soared seemed to be his natural element—as the upper air the eagle's.

Among the most powerful of his jury efforts, were his speeches against Bird, for the murder of Cameron; and against Phelps, the notorious highway-robber and murderer. Both were convicted. The former owed his conviction, as General Foote, who defended him with great zeal and ability, thought, to the transcendent eloquence of Prentiss. He was justly convicted, however, as his confession, afterwards made, proved. Phelps was one of the most daring and desperate of ruffians. He fronted his prosecutor and the court, not only with composure, but with scornful and malignant defiance. When Prentiss rose to speak, and for some time afterwards, the criminal scowled upon him a look of hate and insolence. But when the orator, kindling with his subject, turned upon him, and poured down a stream of burning invective, like lava, upon him; when he depicted the villainy and barbarity of his bloody atrocities; when he pictured, in dark and dismal colors, the fate which awaited him, and the awful judgment to be pronounced at another bar, upon his crimes, when he should be confronted with his innocent victims; when he fixed his gaze of concentrated power upon him, the strong man's face relaxed; his eyes faltered and fell; until, at length, unable to bear up longer, half-convicted, he hid his head beneath the bar, and exhibited a picture of ruffian-audacity cowed beneath the spell of true courage and triumphant genius. Though convicted, he was not hung. He broke jail, and resisted re-capture so desperately,

that, although he was incumbered with his fetters, his pursuers had to kill him in self-defence, or permit his escape.

In his defence of criminals, in that large class of cases in which something of elevation, or bravery in some sort, redeemed the lawlessness of the act, where murder was committed under a sense of outrage, or upon sudden resentment, and in fair combat, his chivalrous spirit upheld the public sentiment, which, if it did not justify that sort of "wild justice," could not be brought to punish it ignominiously. His appeals fell like flame on those

> "Souls made of fire, and children of the sun,
> With whom revenge was virtue."

I have never heard of but one client of his who was convicted on a charge of homicide, and he was convicted of one of its lesser degrees. So successful was he, that the expression—"Prentiss could'nt clear him"—was a hyperbole that expressed the desperation of a criminal's chance.

Mr. P. was employed only in important cases, and generally as associate counsel, and was thereby relieved of much of the preliminary preparation which occupies so much of the time of the attorney in getting a case ripe for trial. In the Supreme and Chancery Courts he had, of course, only to examine the record and prepare his argument. On the circuit, his labors were much more arduous. The important criminal and civil causes which he argued, necessarily required consultations with clients, the preparation of pleadings and proofs, either under his supervision, or by his advice and direction; and this, from the number and difficulty of the cases, must have consumed time and required application and industry.

At the time of which I speak, his long vigils and continued excitement did not enfeeble his energies. Indeed, he has been known to assert, that he felt brighter, and in better preparation for forensic debate, after sitting up all night in company with his friends, than at any other time. He required less sleep, probably, than any man in the state, seldom devoting to that purpose more than three or four hours in the twenty-four. After his friends had retired at a late hour in the night, or rather at an early hour in the morning, he has been known to get his books and papers and prepare for the business of the day.

His faculty of concentration drew his energies, as through a lens, upon the subject before him. No matter what he was engaged in, his intellect was in ceaseless play and motion. Alike comprehensive and systematic in the arrangement of his thoughts, he re-produced without difficulty what he had once conceived.

Probably something would have still been wanting to explain his celerity of preparation for his causes, had not partial nature gifted him with the lawyer's highest talent, the *acumen* which, like an instinct, enabled him to see the points which the record presented. His genius for generalizing saved him, in a moment, the labor of a long and tedious reflection upon, and collation of, the several parts of a narrative. He read with great rapidity; glancing his eyes through a page he caught the substance of its contents at a view. His analysis, too, was wonderful. The chemist does not reduce the contents of his alembic to their elements

more rapidly or surely than he resolved the most complicated facts into primary principles.

His statements—like those of all great lawyers—were clear, perspicuous and compact; the language simple and sententious. Considered in the most technical sense, as forensic arguments merely, no one will deny that his speeches were admirable and able efforts. If the professional reader will turn to the meagre reports of his arguments in the cases of *Ross* v. *Vertner*, 5 *How.* 305; *Vick et al* v. *The Mayor and Aldermen of Vicksburg*, 1 *How.* 381; and *The Planters' Bank* v. *Snodgrass et al*, he will, I think, concur in this opinion.

Anecdotes are not wanting to show that even in the Supreme Court he argued some cases of great importance, without knowing anything about them till the argument was commenced. One of these savors of the ludicrous. Mr. Prentiss was retained, as associate counsel, with Mr. (now Gen.) M——, at that time one of the most promising, as now one of the the most distinguished, lawyers in the state. During the session of the Supreme Court, at which the case was to come on, Mr. M—— called Mr. P.'s attention to the case, and proposed examining the record together; but for some reason this was deferred for some time. At last it was agreed to examine into the case the night before the day set for the hearing. At the appointed time, Prentiss could not be found. Mr. M—— was in great perplexity. The case was of great importance, there were able opposing counsel, and his client and himself had trusted greatly to Mr. P.'s assistance. Prentiss appeared in the court-room when the case was called up. The junior counsel opened the case, reading slowly from the record all that was necessary to give a clear perception of its merits; and made the points, and read the authorities he had collected. The counsel, on the other side, replied. Mr. P. rose to rejoin. The junior could scarcely conceal his apprehensions. But there was no cloud on the brow of the speaker; the consciousness of his power and of approaching victory sat on his face. He commenced, as he always did, by stating clearly the case, and the questions raised by the facts. He proceeded to establish the propositions he contended for, by their reason, by authorities, and by collateral analogies, and to illustrate them from his copious resources of comparison. He took up, one by one, the arguments on the other side, and showed their fallacy; he examined the authorities relied upon, in the order in which they were introduced, and showed their inapplicability, and the distinction between the facts of the cases reported and those in the case at bar; then returning to the authorities of his colleague, he showed how clearly, in application and principle, they supported his own argument. When he sat down, his colleague declared that Prentiss had taught him more of the case than he had gathered from his own researches and reflection.

Mr. Prentiss had scarcely passed a decade from his majority when he was the idol of Mississippi. While absent from the state, his name was brought before the people for Congress; the state then voting by general ticket, and electing two members. He was elected, the sitting members declining to present themselves before the people, upon the claim, that they were elected at the special election, ordered by Governor Lynch, for two years, and not for the called session merely. Mr.

Prentiss, with Mr. Wood, his colleague, went on to Washington to claim his seat. He was admitted to the bar of the house to defend and assert his right. He delivered then that speech which took the house and the country by storm; an effort which, if his fame rested upon it alone, for its manliness of tone, exquisite satire, gorgeous imagery, and argumentative power, would have rendered his name imperishable. The house, opposed to him as it was in political sentiment, reversed its former judgment, which declared Gholson and Claiborne entitled to their seats, and divided equally on the question of admitting Prentiss and Wood. The speaker, however, gave the casting vote against the latter, and the election was referred back to the people.

Mr. Prentiss addressed a circular to the voters of Mississippi, in which he announced his intention to canvass the state. The applause which greeted him at Washington, and which attended the speeches he was called on to make at the North, came thundering back to his adopted state. His friends—and their name was legion—thought before that his talents were of the highest order; and when their judgments were thus confirmed—when they received the endorsement of such men as Clay, Webster, and Calhoun, they felt a kind of personal interest in him: he was *their* Prentiss. They had first discovered him—first brought him out—first proclaimed his greatness. Their enchantment knew no bounds. Political considerations, too, doubtless had their weight. The canvass opened—it was less a canvass than an ovation. He went through the state—an herculean task—making speeches every day, except Sundays, in the sultry months of summer and fall. The people of all classes and both sexes turned out to hear him. He came, as he declared, less on his own errand than theirs, to vindicate a violated constitution, to rebuke the insult to the honor and sovereignty of the state, to uphold the sacred right of the people to elect their own rulers. The theme was worthy of the orator, the orator of the subject.

This period may be considered the golden prime of the genius of Prentiss. His real effective greatness here attained its culminating point. He had the whole state for his audience, the honor of the state for his subject. He came well armed and well equipped for the warfare. Not content with challenging his competitors to the field, he threw down the gauntlet to all comers. Party, or ambition, or some other motive, constrained several gentlemen famous before, notorious afterwards, to meet him. In every instance of such temerity the opposer was made to bite the dust.

The ladies surrounded the rostrum with their carriages, and added, by their beauty, interest to the scene. There was no element of oratory that his genius did not supply. It was plain to see whence his boyhood had drawn its romantic inspiration. His imagination was colored and imbued with the light of the shadowy past, and was richly stored with the unreal but life-like creations, which the genius of Shakspeare and Scott had evoked from the ideal world. He had lingered, spell-bound, among the scenes of medieval chivalry. His spirit had dwelt, until almost naturalized, in the mystic dream-land they peopled—among paladins, and crusaders, and knights-templars; with Monmouth and Percy—with Bois Gilbert and Ivanhoe, and the bold McGregor—with the cavaliers of Rupert, and the iron enthusiasts of

Fairfax. As Judge Bullard remarks of him, he had the talent of an Italian improvisatore, and could speak the thoughts of poetry with the inspiration of oratory, and in the tones of music. The fluency of his speech was unbroken—no syllable unpronounced—not a ripple on the smooth and brilliant tide. Probably he never hesitated for a word in his life. His diction adapted itself, without effort, to the thought; now easy and familiar, now stately and dignified, now beautiful and various as the hues of the rainbow, again compact, even rugged in sinewy strength, or lofty and grand in eloquent declamation.

His face and manner were alike uncommon. The turn of the head was like Byron's, only larger; the face and the action were just what the mind made them. The excitement of the features, the motions of the head and body, the gesticulation he used, were all in absolute harmony with the words you heard. You saw and took cognizance of the general effect only; the particular instrumentalities did not strike you; they certainly did not call off attention to themselves. How a countenance, so redolent of good humor as his at times, could so soon be overcast, and express such intense bitterness, seemed a marvel. But bitterness and the angry passions were, probably, as strongly implanted in him as any other sentiments or qualities.

There was much about him to remind you of Byron: the cast of head—the classic features—the fiery and restive nature—the moral and personal daring—the imaginative and poetical temperament—the scorn and deep passion—the deformity of which I have spoken—the satiric wit—the craving for excitement, and the air of melancholy he sometimes wore—his early neglect, and the imagined slights put upon him in his unfriended youth—the collisions, mental and physical, which he had with others—his brilliant and sudden reputation, and the romantic interest which invested him, make up a list of correspondences, still further increased, alas! by his untimely death.

With such abilities as we have alluded to, and surrounded by such circumstances, he progressed in the canvass, making himself the equal favorite of all classes. Old democrats were seen, with tears running down their cheeks, laughing hysterically; and some who, ever since the formation of parties, had voted the democratic ticket, from coroner up to governor, threw up their hats and shouted for him. He was returned to Congress by a large majority, leading his colleague, who ran on precisely the same question, more than a thousand votes.

The political career of Mr. Prentiss after this time is matter of public history, and I do not propose to refer to it.

After his return from Congress, Mr. Prentiss continued to devote himself to his profession; but, after 1841 or 1842, he was more engaged in closing up his old business than in prosecuting new. Some year or two afterwards, the suit which involved his fortune was determined against him in the Supreme Court of the United States; and he found himself by this event, aggravated as it was by his immense liabilities for others, deprived of the accumulations of years of successful practice, and again dependent upon his own exertions for the support of himself and others now placed under his protection. In the meantime, the profession in Mississippi had become less remunerative, and

more laborious. Bearing up with an unbroken spirit against adverse fortune, he determined to try a new theatre, where his talents might have larger scope. For this purpose, he removed to the city of New-Orleans, and was admitted to the bar there. How rapidly he rose to a position among the leaders of that eminent bar, and how near he seemed to be to its first honors, the country knows. The energy with which he addressed himself to the task of mastering the peculiar jurisprudence of Louisiana, and the success with which his efforts were crowned, are not the least of the splendid achievements of this distinguished gentleman.

But in the midst of his budding prospects, rapidly ripening into fruition, insidious disease assailed him. It was long hoped that the close and fibrous system, which had, seemingly, defied all the laws of nature, would prove superior to this malady. His unconquerable will bore him up long against its attacks. Indeed, it seemed that only death itself could subdue that fiery and unextinguishable energy. He made his last great effort, breathing in its feeble accents but a more touching and affecting pathos, and a more persuasive eloquence in behalf of Lopez, charged with the offence of fitting out an expedition against Cuba. So weak was he when he made it, that he was compelled to deliver it in a sitting posture, and was carried, after its delivery, exhausted from the bar.

Not long after this time, in a state of complete prostration, he was taken, in a steamboat, from New-Orleans to Natchez, under the care of some faithful friends. The opiates given him, and the exhaustion of nature, had dethroned his imperial reason; and the great advocate talked wildly of some trial in which he supposed he was engaged. When he reached Natchez, he was taken to the residence of a relation, and from that time, only for a moment, did a glance of recognition fall—lighting up for an instant his pallid features—upon his wife and children, weeping around his bed. On the morning of ———— died this remarkable man, in the 42d year of his age. What he *was*, we know. What he *might have been*, after a mature age and a riper wisdom, we cannot tell. But that he was capable of commanding the loftiest heights of fame, and marking his name and character upon the age he lived in, we verily believe.

But he has gone. He died, and lies buried upon that noble river which first, when he was a raw Yankee boy, caught his poetic eye, and kindled, by its aspect of grandeur, his sublime imagination; upon whose shores first fell his burning and impassioned words as they were aroused by the rapturous applause of his astonished auditors. And long will that noble river flow out its tide into the gulf, ere the roar of its current shall mingle with the flow of such eloquence again—eloquence, as full and majestic, as resistless and sublime, and as wild in its sweep as its own sea-like flood. "The mightiest river rolls mingling with his fame forever."

The tidings of his death came like wailing over the state, and we all heard them, as the toll of the bell for a brother's funeral. The chivalrous felt, when they heard that "young Harry Percy's spur was cold," that the world had somehow grown common-place; and the

men of wit and genius, or those who could appreciate such qualities in others, looking over the surviving bar, exclaimed with a sigh—

> "The blaze of wit, the flash of bright intelligence,
> The beam of social eloquence,
> Sunk with his sun."

HON. NATHAN WESTON, LL.D.,

CHIEF-JUSTICE OF MAINE.

The subject of this memoir was born in that part of Hallowell which now constitutes the city of Augusta, in July, 1782. He was the fourth in descent from John Weston, who emigrated from Buckinghamshire, in England, twenty years after the landing of the Pilgrim Fathers at Plymouth, and finally settled at Reading, Massachusetts, about twelve miles from Boston. The family were distinguished for their piety, and somewhat remarkable for longevity.

His father was an enterprising, active man, of varied experience through a long life. After a campaign or two, in the old French war, prior to the capture of Quebec, he emigrated to Maine, which then contained a small and scattered population. Before the Revolution he was the owner of Abicadassit Point, on Kennebec River, where he resided, engaging principally in commerce, and sometimes obtaining masts for the king's ships, from the fine timber then to be found on Eastern River, a branch of the Kennebec. Near the close of the Revolutionary War he removed to what is now Augusta. He was, at one period, a public man, and in successive years a member of the House, Senate, and Council of Massachusetts. In 1781 he married the mother of the chief-justice. She was the daughter of Samuel Bancroft, Esq., of Reading, and sister of the late Dr. Bancroft. With her, although his third wife, he lived fifty years. She had previously married Mr. Cheever, of Salem, where she lived eight years, until his decease. Two children of this marriage survived, one of whom was the father of Dr. Cheever, of New-York.

Of her first husband she was accustomed to relate an anecdote, which it may not be improper to introduce for its historical interest. Prior to the battle of Lexington, Gov. Gage had sent a small force to seize certain military stores which had been collected at Salem. The citizens were apprised of the movement, and determined to resist it. While they were removing a plank from a bridge, over which the detachment had to pass, Mr. Cheever received a slight wound from the bayonet of a British soldier, who was at once thrown into the stream by the citizens. The force having no orders, probably, to proceed to extremities, retreated, without effecting their object. There is little doubt that the first blood shed in the drama of the Revolution flowed from the veins of Mr. Cheever.

Judge Weston's mother had a strong and cultivated mind; her father was the leading man in his town, which he represented many years in the General Court during the stirring scenes which preceded

the Revolution, voting and exerting an influence uniformly on the patriotic side. She delighted her children with reminiscences of her early days; the state of society in anti-revolutionary times, the reverence which was felt for the clergy; their conversation and bearing, when visiting at her father's; the strictness of his household; their consecration of the Sabbath; the uniformity with which he discharged the duty of family prayer, reading the scriptures and religious instruction, in which his colored servants participated, as equally interested in the hopes and promises of the gospel. The savor of the Puritan influence of an earlier day still pervaded the community; they were not inattentive to their secular interests, but their highest hopes were centred in a future state of existence. The opening mind of the daughter was early imbued with these influences; she became a professor of religion in her youth—she felt its power; and understood what it was, morally and intellectually. With the Bible, the sure word of God, the only acknowledged touchstone of Protestant faith, she was most familiar. From the time she learned to read, she never failed each year to read it through in course. The subject nearest her heart she endeavored to impress, with a mother's devotion, upon the minds of her children. She was, besides, a general reader of all interesting books, to which she could find access. Many valuable and standard works were, under her direction, read in the family, and became topics of conversation. Judge Weston ascribes his thirst for knowledge, and his aspirations in his literary and professional career, very much to the influence of his mother.

The common schools, in the village where he resided, were sometimes kept by a master who had received a classical education; and he had made some progress in a preparation for college, before Hallowell Academy was open for instruction. When that took place, he attended there, under the tuition of its learned and talented preceptor, Samuel Moody. His industry, quickness of apprehension, and great proficiency, won for him the esteem of his instructor, who continued ever after his steady friend. In 1808, they were both members of the Massachusetts legislature. At the first session his pupil made his maiden speech, which was well received by the house, and spoken of as indicative of no ordinary talent. The countenance of his worthy preceptor was radiant with delight, and he declared to a friend that he was never more highly gratified.

Mr. Weston entered Dartmouth College, and, in 1803, received its honors. While there, he maintained a high rank among his fellow-students, devoting to general reading such portions of his time as were not necessary to a thorough proficiency in the classics. All who knew him, while resident there, speak of him with interest. Three or four years after his graduation, in the presence of a number of gentlemen, at Governor Sullivan's table, in Boston, the late President Wheelock boasted of him, as a son of Dartmouth, of great promise, which the governor took pleasure in communicating to his father, then a member of his council.

He selected for his future career the profession of the law, and entered, in Boston, the office of George Blake, Esq., Attorney of the United States for the district of Massachusetts. The attractions of the city did not seduce him from application to study. He was an assi-

duous attendant upon the courts, when in session, which were the forensic arena of many distinguished jurists. Among others were Parsons, afterwards chief-justice; Dexter, who had been in both houses of Congress, and in the cabinet of the elder Adams; Sullivan, and Gore, each of whom was subsequently elevated to the governor's chair in Massachusetts; and the elegant and brilliant Otis, at that time the delight and favorite of the city.

Unless Virginia may be excepted, Massachusetts had been decidedly, from the commencement of the Revolution, the leading state in the Union. She had furnished a large number of the prominent public men of the day. These had clustered in and about Boston, the cradle of the Revolution. Politics, as a science, the formation and establishment of institutions which were to affect the destiny of an empire, rising rapidly to greatness, trained and exercised the first minds on subjects of deep interest to the happiness of mankind. Many of these, while a student, Mr. Weston had opportunity to see and hear. Their conversation, as well as their public displays, was highly instructive and improving. His inquisitive mind derived knowledge from the eye and the ear, which the most devoted student cannot acquire in the closet. He always regarded the privileges thus afforded him, as having had a favorable effect upon the expansion of his powers.

Mr. Blake had acquired a handsome fortune, which enabled him to live elegantly. He was a man of fashion, and, having a keen relish for the pleasures of society, was little inclined to the severer labors of his profession, either by study or otherwise. He was a man of sense, a fine *belles-lettres* scholar, distinguished for the amenity of his manners and his remarkable colloquial powers. He was received with pleasure everywhere; and visited occasionally Washington, Philadelphia and New-York, mingling much in society, and well advised in all the passing topics of the day. Whatever he acquired, he communicated in the most interesting and happy manner. He acquitted himself respectably, in the court-house, in the discharge of his official and professional duties; but in all important causes chose to invoke the aid of Mr. Dexter. Together, they could not be surpassed by any professional array that could be brought against them.

The vast aid which a student now derives from American reports, and other legal publications of a high order, did not then exist. Nothing of this kind was to be found, except Dallas' Reports of three or four volumes, and one or two which had been published in Connecticut. The student was expected to read Coke, Littleton, Sheppard's Touchstone, Plowden, and Saunders, among the more ancient, and most of the modern English Reports then published. Bacon's Abridgment was much read by students; but Mr. Blake, under the advice of Judge Lowell, an eminent jurist of his day, preferred the Digest of Baron Comyn. His pleader, in that publication, which is unrivaled for method and clearness, was studied by Mr. Weston with profound attention. He thus became a proficient in the art and mystery of special pleading; at this day of less practical consequence, but not without its use, as a discipline of the mind in the analysis and elucidation of legal principles. But the most elegant and attractive work, at that period, on English law, was Blackstone's Commentaries. It was so great a favorite with

Mr. Blake, that he never failed to give it an annual reading. He recommended the same course to his pupil. This advice he followed for many years, and, as he says, with great advantage.

Mr. Blake, who had become much attached to his pupil, and appreciated his talents and acquirements, upon his admission to the bar, in July, 1806, proposed favorable terms of partnership in business, which he urged him to accept. This, Mr. Weston declined, choosing to push his fortunes in Maine.

He first opened an office in Augusta, but was, in a few months, persuaded by friends in that part of the country to remove to New-Gloucester, in the county of Cumberland. He there resided three years, in full and varied practice. The bar of that county were learned and respectable, with whom, in the court-house in Portland, he had the benefit of an active professional training.

In June, 1809, he married Miss Cony, daughter of the late Judge Cony, an elegant and beautiful woman, who still survives to cheer and embellish his evening of life. This connection, among other reasons, induced him, in March, 1810, to return to Augusta, where he still resides.

In 1811 he accepted the office of chief-justice of the Court of Common Pleas for the second eastern circuit of Massachusetts. This office he held until the separation of Maine from that commonwealth. He was, when appointed, but twenty-nine years of age, probably the youngest man who had received a judicial office in New-England. It was soon perceived that he was placed in a position for which he was eminently qualified. His readiness, impartiality, courtesy and dignity were highly appreciated by the bar and the public. Upon the erection of Maine into a separate state, he was, in June, 1820, elevated to the bench of the Supreme Court.

In 1825 he was, by the nearly unanimous vote of the members of the legislature, without distinction of party, nominated for the office of governor. Retaining, however, a predilection for the judicial department, he declined the proffered honor.

Upon the retirement of Chief-Justice Mellen, in 1834, he was appointed his successor. He presided in the Supreme Court seven years, which had become the limitation of the tenure of judicial office, and finally retired from the bench in October, 1841, having discharged the duties of a judge, without interruption, for thirty years. In the enjoyment of uniform health, he was never, during that long period, detained from duty a single day by indisposition.

At *nisi prius*, his legal learning and varied experience, always ready for use, enabled him to rule promptly upon all the legal points raised. He was patient, cool and attentive in causes to be submitted to a jury, preserving, through long and protracted trials, the most unruffled equanimity. In his charges to the jury, the bearing of complicated facts was exhibited in a manner so methodical and lucid, as to be readily appreciated by the least disciplined mind. The haze of professional subtilty was dissipated; light was evolved from obscurity; and the path of justice and equity rendered luminous and clear.

The law of real estate in England, derived originally from the feudal system, although reduced to a science under the lead of the old law-

yers of the Norman school, had been involved in great complication. It was covered with a web of legal subtilty, to be understood and handled only by the initiated. Although somewhat simplified by English legislation, it still remains a system, rather for the benefit of the noble and wealthy, in their family settlements, than for the community generally.

But we are much indebted to English jurists for the elucidation of the law of personal property and personal rights, which have become of paramount consequence by the vast increase of wealth arising from commerce and manufactures. During the long administration of Lord Mansfield, he found the principles of the common law sufficiently elastic and expansive to be applied happily to the new order of things. Judge Weston sympathized more strongly with minds of this class than with those who feared to travel, except *per vias antiquas*. He respected the principle, *stare decisis*, when it became a rule of property, or of commercial necessity and convenience; but when decisions, or technical principles, were invoked to defeat the claims of justice, it was not easy to persuade him that he was bound to yield to their authority. It was then that the elements of the law, with which his mind and memory had become imbued, became of vast practical use and application. The principles of the common law, many of which were embodied in Latin maxims of great point and significance, in his skilful hand proved broad enough to relieve him from the pressure of technical views, limited to too narrow a field.

Of his labors in the solution of legal questions, brought before the whole court, the first twenty volumes of the Maine reports remain an enduring monument. His judicial style, clear, terse and elegant, would not suffer in the comparison with the most finished opinions to be found in the American reports. It is impossible to misunderstand his meaning, which stands out with a prominence that can neither be mystified nor perverted. If precedent was wanting, he was guided by the analogies of the law and the great principles of justice. Many of his opinions are not less distinguished for their elevated moral tone than for their sound legal logic.

He was not opinionated. While a question was pending, his mind was open to conviction. He sought light wherever it could be found; but when his judgment settled upon thorough research and mature consideration, he maintained it with undeviating firmness.

The honorary degree of doctor of laws was conferred upon him by Dartmouth, Bowdoin, and Waterville colleges.

In the cause of education he has ever taken a deep and active interest; and as one of the oldest trustees in each board of the two colleges of Maine, has exerted an influence upon the welfare of those institutions that could not have been spared.

It would not be easy to find a man who possesses a greater amount of general information than Chief-Justice Weston. He is as profound in theology, which has always been one of his favorite studies, as he is learned in the law; while he seems to be as familiar with every department of science and literature, as if his life had been spent in pursuits of this class, instead of the investigation and application of legal principles. His insatiable thirst for knowledge has been constantly

gratified and stimulated by new acquisitions; while an iron constitution, which has shown itself proof against any amount of intellectual exertion, has enabled him to push his researches, without interruption, to the present hour. What he thus acquires seems always at perfect command. There is no confusion in his knowledge. His mind is like a well-ordered cabinet, where everything is skilfully arranged and available; where every shell, and gem, and fossil, and mineral, is within reach, either for ornament or illustration.

His memory is very remarkable: it is, perhaps, one of the secrets of his strength, as it certainly forms a considerable source of the fascination of his conversation. He is a man of vivid impressions. What he hears and what he reads, no less than what he sees, seems to be daguerreotyped upon his mind, never to fade. He has as clear a conception of the stirring events which have taken place within the last fifty years, in both hemispheres, as if they had passed under his own eye. Persons distinguished in our own history, now long dead, with whom he has had intercourse, are as distinctly remembered as if he had parted with them but yesterday. Racy anecdotes, illustrative of their characters and of their times, and therefore matters of general interest, are told by him with all the freshness of a recent occurrence. As with an enchanter's wand, he raises the curtain, and exhibits past events, making them, like well-executed tableaux, to stand out as present realities. It is on such occasions that the regret is often repeated, that he does not employ his gifted pen in delineating interesting reminiscences, which will otherwise die with him.

As an extemporaneous speaker, he stands deservedly high. His manner is calm, deliberate, dignified, graceful and impressive. The same classic elegance and chasteness of language which belong to his written opinions, also characterize his extemporaneous addresses. It was a common remark, that his language could not be improved, but was ready for the press just as it fell from his lips. Perhaps he cannot be said to be an eloquent man, in the common acceptation of the term. He ordinarily lacks excitement. His discourse, like a deep stream, flows, perhaps, too smoothly. Yet this very calmness, which is habitual with him, renders an occasional burst of excitement vastly more impressive. The fire is there, though it may slumber. The writer remembers one occasion when, under the influence of strong emotion, he spoke for two hours, with a sustained and thrilling and masterly eloquence that he has never seen surpassed. The smoothly flowing stream had become a torrent, that swept on with a resistless momentum. He was so early placed upon the bench, that his career at the bar was necessarily short: yet it was sufficient to show, that had he allowed his mind to develope itself thoroughly in this channel, instead of casting it in a judicial mould, he would have obtained an enviable eminence as an advocate. He was cool, cautious, and ready; presenting the strongest points of his client's cause in the most winning and advantageous aspects; and defending, with admirable skill, those which were more assailable. No man could parry better than he the force of an adverse authority, or show greater ingenuity in discriminating his case from the one cited against him.

The writer would do injustice to the subject of this sketch, did he

neglect to speak particularly of those social qualities, which constitute one of the most attractive features of his character. He shines in the department of domestic and social life. It is in the unreserved intercourse, which mutual love and esteem produces, that the charm of his conversation is felt by both young and old. It is here that his real amiability of disposition finds full play. With a lively and cultivated imagination; a ready, genial wit, which pleases all without wounding any; quickness at repartee; an inexhaustible fund of anecdote, relating to matters and things and persons, within his own recollection; great general information and power of graphic delineation; all united with the manners and bearing of a thorough gentleman, render him at once the ornament, as well as the favorite, of social life. An evening spent with him, when he is in one of his best colloquial moods, is an event to be remembered.

Chief-Justice Weston is now, at the age of three-score years and ten, in possession of full bodily and mental vigor; with an eye as keen and as full of fire as in his younger days. After a term of active service, unusually long, he is quietly enjoying, in easy circumstances, the evening of life. Yet, though retired from business pursuits, he is still actively engaged in the acquisition of useful knowledge, and in keeping up with the progress of the age; performing, as a matter of recreation, an amount of study and reading, that many younger men would regard as no inconsiderable labor. From the "loopholes of retreat" he looks with eager interest upon the panorama of this moving world, allowing no item of general interest in any part of the globe to escape him.

HON. WILLARD HALL,

OF DELAWARE.

Willard Hall, district judge of the United States for Delaware district, is a native of Massachusetts. He was born at Westford, in the county of Middlesex, the twenty-fourth of December, 1780: his father, Willis Hall, was born and died in that town; his mother, Mehetable Pool, was of Hollis, New-Hampshire.

His grandfather, Willard Hall, was a graduate of Harvard College, in the class of 1722. He was, soon after, ordained and settled the first pastor of Westford, erected, just before his settlement, into a town; the west part of the territory of Chelmsford being set off for that purpose. He has been represented as a pious, useful minister. Dr. Payson, fifty years ago pastor of Chelsea, near Boston, spoke in strong terms of the gratification of having been acquainted with him, and mentioned as remarkable the clearness and strength of his mind. He united the offices of pastor and physician: the condition of society at the time extending greatly his usefulness. He was a strenuous supporter of common education. The town, on one occa-

sion, considering themselves excused by a special emergency from laying the required school taxes, he complained to the general court, and arraigned his own charge before that tribunal. In this he offended, as he knew he should, many of his people; but he would make no compromise with delinquency in this matter. He was a man of taste in agriculture; he had a good farm; he cultivated fruit trees, plums, apricots, peaches, pears, apples, currants, black, white and red; his garden, his orchards, his fields, years after his death, bearing witness to his skill and industry.

In consequence of an academy being instituted in Westford, in 1792, Willard Hall, the grandson, was placed in the way of a liberal education. He entered that academy with the first scholars. He was prepared for college at the Harvard commencement in 1794, and then was examined and received; but he returned and continued another year at the academy, and entered the freshman class of 1795. The disposition then seems to have been to protract the term of education. Now, a contrary disposition prevails, that leads—instead of entering freshman two years in succession, not to enter freshman at all, but overleap one, or, if it can possibly be done, two years of college course. The evil, the better expression is ruin, of this impatience of elementary education, is not properly considered: it is not examined and tested by experience so as to be understood. The writer has in view a gentleman of good natural endowments and estimable moral character, who has been delving at a profession twelve years or more, in barrenness, whose want of success, he believes, is attributable to having been unfortunately sent to a small, incompetent college, and acquiring there, for he could acquire no other, a superficial education. His education instead of investing his mind with the elements of power, has formed it to feebleness—made it incapable of vigor and persevering strength.

Judge Hall graduated at Harvard at the commencement of 1799.

At the time of his leaving college, Groton, adjoining his native town, was distinguished by the residence of two eminent lawyers of the Middlesex bar, Timothy Bigelow and Samuel Dana. Mr. Bigelow was a man of great ability, and elevated moral and religious character. His speaking was rapid, rapid to a fault; but it was earnest, energetic, and full of matter. He filled the circle in which he moved; but on the broad extent of his state and nation he never attained to the eminence that was his due. Personal idolatry, so rife now, was then unknown. Mr. Dana was a good lawyer, a graceful speaker, with a melodious voice, an interesting gentleman. He abounded with anecdote; there could be no more entertaining companion. Much instructive personal history has been lost by his death.

The offices of Mr. Bigelow and Mr. Dana were nurseries of lawyers. The recollection of them, in connection with the remark that has been made on the difference of the present from the former course of education, brings to mind an observation made by Mr. Dana to the writer long after he had left his office. Said he: "When you and others left my office, I had not a misgiving concerning you; I was as confident of your success, as a farmer is of a crop from a well-cultivated field;

but that assurance is gone; and for those now setting out I feel nothing but apprehension."

Many had acquired the profession in these offices before the writer. Several were there with him. All became indebted for the tuition-fee; and most for something additional. On leaving, they gave their notes. He has been informed, and he does not doubt it, that nothing was ever lost of these notes.

Judge Hall entered Mr. Dana's office, March, 1800. In March, 1803, he was admitted to the bar of Hillsborough county, New-Hampshire; Mr. Dana practising in that county. Having read, in a speech in Congress of James A. Bayard, then the distinguished representative from Delaware, some accounts of the bar in this state, placing it in an elevated moral position, and representing the practice as reasonably productive, he addressed to him a letter of inquiry. The gentlemanly and favorable answer of Mr. Bayard induced him to make choice of this state for prosecuting his profession.

He left his father's house in Westford, April 7, 1803; and traveling on horseback he reached Wilmington, Delaware, the 16th of that month; from thence he proceeded to Georgetown, Sussex county, where the Court of Common Pleas was beginning its spring sessions. He had letters from the late H. G. Otis, of Boston, to Mr. Bayard and Mr. Rodney, and a record of his admission to the bar in New-Hampshire, and upon the application of Mr. Bayard, and a subsequent report of him and the late Rev. James P. Wilson, D. D., of Philadelphia, then at the bar in Georgetown, Sussex, he was admitted an attorney and counselor of that court. In May, 1803, he settled at Dover, in the practice of law, and sedulously pursued this practice for twenty years. In this period he never allowed himself spare time sufficient to visit Massachusetts in modes of traveling then in use. He married, and had one child; he yearly devoted a fortnight to a change of air in Pennsylvania, to escape the intermittent fever of the level country of his residence. He always felt guilty in starting and returning on this excursion; for he considered, that professional services are needed by the community, and that a professional man is bound to make it convenient to the community to have benefit of these services. He never saw father nor mother after leaving them, April, 1803.

Settling, a stranger among strangers, in a part of the country whose customs and manners were strange to him, without one auxiliary of patronage either of person or circumstance, and in competition with gentlemen in prime and vigor of life, of commanding ability, first-rate education, held in highest personal esteem, in the midst of their own people and having a full start, his movement was slow, but progressive. It continued so. In 1811 he was appointed secretary of state, and exercised this office till January, 1814. In 1816 he was elected one of the representatives from the state to the Congress of the United States, and was re-elected in 1818. In 1821 he was again appointed secretary of state; in 1822 he was elected a member of the state Senate; and in 1823, May 6th, on decease of Judge Fisher, he was appointed by President Monroe district judge of the United States for Delaware district. When this office was conferred, his practice at the bar was better than it had been, and increasing more certainly and substantially

than it had ever done. But he was wearied with twenty years' labors and anxieties; toiling harder for his clients than they would work for themselves, and feeling more deeply than they felt for their own interests.

Upon the application of the General Assembly of Delaware, he revised the statutory laws of the state. He completed the work in 1829, reducing six volumes of laws, 3,646 pages octavo, to one octavo volume, of which the public laws occupied 563 pages. In this revision he retained, in their own language, all old provisions, clearly expressed and unaffected by subsequent legislation. The mass of the laws did not admit of this. Upon most subjects the law was found in many acts amending, supplying, varying. In such cases his course was to determine the laws resulting from all the statutory provisions, and express it in a bill prepared for the purpose, in plain, clear language, without redundancy, repealing all former acts in *pari materia.* It is believed, that from 1829 till 1852, when another revision has been made, not a difficulty in practice, nor a vexed question, or perplexity, has been occasioned by this work.

In 1831, a convention was called in Delaware to revise the constitution. Judge Hall was then a resident of Wilmington, in Newcastle county, having removed from Dover in March, 1825. He was elected a delegate from Newcastle county to this convention, having been placed on the ticket of both parties.

His views of democratic republicanism upon the engrossing subject of offices, found no favor on either side. These views were, that a democratic republic consists of its citizens, each individual having place, and weight, and duty: individual talent, enterprise, industry and worth, composing the common stock; that every citizen, therefore, should have scope and inducement to employ to best advantage his talent, enterprise and energies; that if there be two offices affording places for two men, when one office with one of them would be competent to discharge all the functions, there is the loss of a man, and even worse, for the two will probably become indolent, and be drones, while one discharging all the duties would be kept active, and by his energy be felt beyond his office in building up social improvement; that this was not mere theorizing, for under his own observation several young men of highest promise, with advantages to be ornaments to society, had been allured by present apparent benefits into little offices, and destroyed, becoming idle, incapable and worthless.

The question of offices should be determined with a sole view to the accommodation of the people, to be served through the functions. Their business should be done well, with as little expense and great convenience to them as consistent with justice to the officer. If what is done in four offices can be done as well in one, by discontinuing three, and assigning the functions of four to ONE, the people will be served with more convenience and less expense to them; there will be a better officer, and he will be better supported. The REPUBLICAN view of the subject presents these considerations. It is utterly anti-republican to create offices to distribute favors to individuals. This is taxation—taxation of the most unjust and baneful nature, wantonly imposing public burden, injuring the favored men whose talents and industry, urged to exertion in some useful pursuit, would gain a better living

and more influential standing, and harrassing the community by negligently executed officers.

But the petty interests sustaining the opposite view, are too strong to be overcome by argument.

While secretary of the State of Delaware, Judge Hall had advocated provision of PUBLIC SCHOOLS, and suggested a plan. In 1829, a committee of the legislature applied to him for a bill forming a school system for the state. He drafted a bill which was passed, with the exception of a provision conferring the power of taxation, omitted not according to the judgment of the members, but through their apprehension of the unwillingness of the people. This feature was restored in a modified form; but another important feature, that a school district should receive from the school fund of the state no more than it raised in itself, was marred by allowing a district to draw its dividend upon raising the minimum sum of $25. With these variances, the school system of the state is as framed by this bill.

Under this system each county was divided into school districts; and to the school voters in each district was committed the power, in lawful meeting, to choose a school committee to provide a school open to all the white children of the district, and to raise money to enable them to discharge their duties, each school district being a community invested with power and responsibility to maintain a school for its youth, and the school voters being the fountain of this power and responsibility.

It has been objected to the system, that it is too democratic, resting on the will of the people, without inherent power for healthful action. The answer:—It adopts the vital principle of our civil polity, containing the elements of all our institutions, and imparting to them form and life, viz: that the people best understand their own interests, and are the trustworthy keepers and directors of them; and that they for themselves, and none others for them, must concert and mature all plans for bettering their condition; that this principle should pervade, and be practical everywhere in conducting all public concerns committed to communities, so that the people shall be trained to discretion, intelligence and sound judgment. The people need educating as well as the children; they have the power; it can neither be reclaimed nor abridged; the only safety, and therefore the course of wisdom, is in their learning to use it. The people of this country are in everything unlike those of the Old World. THERE they are to be amused, recreated and kept contented: HERE they are to be trained into capacity, to understand and pursue the common good as their true and individual interest.

But why allow place to this subject in this periodical, devoted to the legal profession, for elevating their character and promoting their usefulness and prosperity? Because this matter has a far wider scope than is supposed. Train the mass of the community in common schools, and select classes in select schools, and by the process you plant the substratum of society with roots of bitterness, diffusing noxiousness through the soil, and producing a most baneful growth. Feelings of childhood influence through life; the disposition and temper remaining after the emotions, in which they originated, have passed away, and are forgotten. It cannot be disguised, that great jealousies pervade com-

munities. One class being supposed too high, prejudices are invoked and fostered to prostrate them. Men distinguished for ability and aptness to fill stations are not selected, because of jealousies arising from this very ability and aptness. Worth is thrown away; common good sacrificed; public detriment incurred of choice. The fact, that the persons proscribed by the common opinion have never been a part of the mass, but have always moved in a separate sphere, has much to do in occasioning this result. It is essential to the prosperous action of our institutions, that all classes begin together, and go through an interesting part of their course in company. The counterpart of the disposition producing the mischief just noticed, can be formed only in childhood. A jealous temperament once formed cannot be corrected. Remedies, apparently the most judicious, merely increase it. There is no calculating the reciprocal influence in childhood of general association; that of the poor is as beneficial to the rich as that of the rich to the poor: instilling and imbibing lessons of practical life that can be learned in no other way, and indispensable to the harmonious working of the whole community.

Another objection has been made to this school system:—that it allows country districts to be too large; as some scholars may be distant two miles from the school-house. This objection is noticed here to introduce the remark of the writer, that to the necessity which his home in childhood laid upon him to walk two miles and a-half to school, going in the morning, returning at night, with a crust of bread in his pocket for his dinner, he attributes it, that with a constitution by no means robust, and at the age of twenty-two leaving New-England and settling in a climate deemed sickly, he has enjoyed uniform good health, rarely interrupted even by slight indisposition, and has reached an advanced period of life without feeling the pressure of age. Considering how much is lost to business energy, and how much pain is suffered, in consequence of the debilitated frames of professional men, this remark may be of some value.

Of the late James A. Bayard, whose name has occurred in this narrative, the writer may be allowed a passing notice. His was not a noisy fame; but no man's was more solid. Those who knew him held him in the highest estimation: a man of elevated principle and commanding intellectual power. Mr. Madison, through admiration of his ability, appointed him, an opponent in politics and a citizen of the smallest state, hence without local influence, on the commission with Albert Gallatin, John Q. Adams and Henry Clay, to maintain the rights and interests of this country in the negotiations at Ghent.

The writer has heard some of the most eminent lawyers of this nation: Samuel Dexter, Luther Martin, William Pinkney, Daniel Webster, and others, and has knowledge of other distinguished members of the profession; but he has heard, and has knowledge of no one whom he considers superior to Mr. Bayard. Of the bar of his state he was the pride, and most justly: he was an ornament of that of the nation.

He was no case-hunter. He placed little stress on authorities, unless unequivocally decisive. He grasped the governing principles, took a lucid view of his case, and in the application, argued with overwhelming effect.

He prepared himself with diligence and care; examined and understood the matters that were to form the argument; would touch nothing that could be turned against him. The writer, concerned with him in a case involving new and important points, had found an authority which he deemed pertinent and weighty. He went into an argument to show how clearly applicable were the principles involved in the decision, and how a position apparently contradictory, not only was not so, but was corroborative of these principles. Mr. Bayard, after listening attentively, replied—"This is all very well; it would be a pleasant exercise to a student thus to unfold and show the application of the principles; but we have to do with judges, who, while we are reasoning to show that the general principles of the case are decisive, may run away with the position that carries on its face an opposite appearance. Never," said he, "cite a case that does not run on all four." He rejected the case, and gave the writer an impressive and useful lesson through the mode in which he treated it.

HON. ELISHA M. HUNTINGTON,

OF INDIANA.

Elisha Mills Huntington is the fifth son of Nathaniel Huntington, and a native of the county of Otsego, New-York. His father was born and educated in Connecticut, from whence he emigrated to New-York, about the year 1805 or 1806, where he died in 1814. His widow, the mother of Judge Huntington, whose maiden name was Mary Corning, is now living at an advanced age in the valley of the Unadilla, near his birth-place, where she is held in most affectionate veneration by all who know her, for her extraordinary energy of mind, her active benevolence, her cheerful temper, and exemplary piety.

The Huntingtons are descendants of Simon Huntington, who emigrated from the county of Norfolk, England, about 200 years ago, bringing with him three sons, who settled at Saybrook, Connecticut. Although we believe that no man reckons less upon the distinctions of ancestry than Judge H., having been emphatically the architect of his own fortune, yet he cannot be insensible to the fact, that he bears a name which has been highly distinguished for talent, patriotism and public service in the field and in the Senate, not only in the "times that tried men's souls," (for they were all whigs during the Revolution,) but more recently in the field of literature and the arts. In this country no man is born to honors, though he may inherit advantages of fortune, which, however, are rarely improved; for how true it is, that in a large majority of cases the trials of adversity in early life have proved the best inheritance of our men of distinction. And this must always be the case where there is an infinite subdivision of property during every generation, and where political honors are the reward of merit and not of birth.

Shortly after the death of his father, his mother being left in humble circumstances, yielded to the request of a gentleman whose name he

bears, Elisha Mills, of Canandaigua, New-York, his uncle by marriage, who proposed to adopt him as his own son. This uncle placed him first at a school for small boys, and in the course of two years afterwards transferred him to the academy of that place, then under the charge of a most eccentric man, but fine scholar, Mr. Stephenson, by birth a Scotchman. Here he remained for several years, preparing himself for college. His uncle, however, falling into straitened circumstances, was compelled to abandon his plan for the education of his nephew, and on the eve of his removal further west, placed him in the office of the Hon. Mark H. Sibley, then a young lawyer of great promise. He was then but little past fourteen years of age. He remained there about one year, performing the duties of a lawyer's clerk with cheerful patience, and earning, by leave of Mr. Sibley, such pocket-money as he needed, by writing conveyances and other instruments out of office hours. Judge Sibley's kindness to him while a student is most gratefully remembered, and although his course of study at that time was confined to the few first works placed in the hands of the student, he there acquired a knowledge of the forms of practice, by preparing and copying papers, which was of immense service to him in after professional life.

In the summer of 1822, his oldest brother, Nathaniel, who had settled in Indiana, in 1816, and who was a lawyer by profession, made a visit to New-York, and on his return home, proposed to take his younger brother with him. His health being somewhat delicate, he determined to go, being captivated with the pictures of western life. Mr. Sibley procured him Judge Yates' certificate of the time he had been a student, and he took leave of his friends and a home that was endeared to him by all the memories of childhood, and the recollections of kindnesses bestowed on him, in a society then distinguished for its intelligence and refinement. Towards his uncle Mills, long since deceased, he cherishes a most grateful remembrance for his uniform liberality and kindness towards him.

Thenceforth his home was in Indiana, at that time in the far West,—but now, after the lapse of only a few years, almost a central state of this great republic.

His brother lived in the neighborhood of Terre Haute, one of the most beautiful towns of the Wabash valley, and surrounded by a most enchanting prairie country, then scarcely reclaimed from the savage. Here, for three or four years, he spent his time in reading his brother's books, and in riding over the country. Indeed he has often been heard to say, that during that period he lived like a Cossack in his saddle, ready for a fox or steeple chase, there being full play for the powers of his horsemanship in pursuing the wolf and wild deer across those beautiful prairies, then unobstructed by fence, bush, or brier.

He, however, spent a portion of this time in the office of his brother-in-law, who was clerk of the adjoining county of Parke, where for sometime he discharged not an unimportant part of its duties. He also made one trip to New-Orleans during the above period: his account of which is highly amusing, having completed the whole distance on board of a flat-boat, and being forty days on his journey down.

On his return, he determined to complete a regular course of legal

study, and prepare himself for the bar. For this purpose he entered the office of Moses Tabbs, Esq., of Vincennes, a gentleman of the most elegant attainments, where he remained until examined for admission. He was sworn and admitted to the bar the day he was twenty-one years of age, and thenceforth was thrown upon the broad ocean of that profession, where so many bright hopes have perished, and where so many honors have been won—and where the mental and moral powers are subjected to a scrutiny that rarely fails to assign to every one his true position and his true character. Here he commenced life. Hitherto he had felt himself guided, counseled, and assisted by his older brother. But now he stood alone, and although bold of heart and buoyant of spirit, he had many misgivings about the future.

While a student, he had frequently attended the courts at Vincennes and Terre Haute, and was known to most of the members of that bar. His manners made him popular. At that time there was in the circuit, a bar not only distinguished for talents, but free from all spirit of personal envy and jealousy—gentlemen, actuated by generous, manly feelings, who divided the last dollar with a friend, and rejoiced in the success of the young aspirant for fame or fortune. Several of the leading members of the bar at once offered him any pecuniary aid he needed for his first circuit; he perhaps accepted a small loan, not having, as he has often said, a single dollar in his pocket. His brother had retired entirely from the practice, but there were a few old cases of his yet before the courts which now fell into his (Judge H.'s) hands. He thus describes his first appearance as counsel in a cause: "It was in the county of Parke, where, as a boy, I was pretty well known, and perhaps this was of no advantage to me on that occasion. Had I been among entire strangers, I am sure I should have felt less embarrassed. I was to take my brother's place in the defence of an old man by the name of Hines, indicted for grand larceny. The charge was for stealing hogs, a very common offence in those days, when the entire stock of the country ran at large, and the woods were filled with large herds of wild swine. The accused had, it seems, been more than once suspected of this sort of theft, and had rendered himself exceedingly obnoxious to the neighborhood, so much so, that the neighbors clubbed together and feed one of the most distinguished lawyers of the circuit to assist the government attorney in the prosecution. After the testimony, which I thought was far from conclusive, had been closed, Mr. J., the assistant counsel for the state, made the opening speech. He made nothing like an effort. I thought he only endeavored to say enough barely to earn his fee, and perhaps give me something to answer. The court-house, which was built of logs, was filled, everybody in those days making it their business to attend court. I thought all eyes were upon me. Some I thought looked encouraging, others indifferent, and perhaps a few were anxious to see me fail. I rose, and although within three feet of them, the faces of the whole twelve jurors seemed to mingle into one. A dimness came over my vision, and I could see nothing distinctly. I could hardly stand upon my feet, and yet, somehow or other, I managed to say something, and even to state at some length the grounds of the defence. My mouth uttered words, and yet I was hardly conscious when I got up or when I sat down of a single distinct idea. I was followed by Mr. C.,

a man of decided ability. Mr. L., the state's counsel, concluded the argument, and very kindly complimented me, while he left the gentleman associated with me, a man of talents and an exceedingly fine advocate, without notice. I always supposed that I ruined the defence. The old man was found guilty, of course, and but for Judge P., then on the bench, who granted a new trial, would have ended his days in the penitentiary. On the second trial he was acquitted."

The ice, however, was now broken, and in a country where almost all were strangers, it was not long before he became one of the most popular young lawyers in the state. In a circuit embracing then some fifteen counties sparsely settled, now containing 150,000 inhabitants, life on the circuit, which occupied more than half the year, was full of incidents. The judge of the circuit, with the entire bar, traveled together from county to county on horseback. With little opportunity to refer to books except in vacation, (for nearly the whole bar lived at Vincennes and Terre Haute,) success depended in most cases upon the ready power of the advocate. The reading of Judge H. had been confined chiefly to elementary works—he had read few books of reports, and from the commencement he relied more on principles than adjudicated cases. His year in Mr. Sibley's office, in New-York, had made him familiar with forms.

In the course of two years after his admission to the bar, he was elected by joint vote of the legislature prosecuting attorney for his circuit, an office then much sought for and highly responsible. During his term of two years, no young man stood higher as a criminal lawyer, and it was supposed he could be re-elected without opposition.

Being, however, of very decided politics, the entire Jackson party in the legislature united with some three or four of his own, and elected by a single vote a gentleman of his own politics who had no claims on the score of talents, or attainments, to the place. At the moment, he felt this defeat as a serious blow upon his prospects. This feeling, however, was but momentary. He returned home to his county, and in less than three weeks afterwards was returned to the legislature as their representative,—the sitting member having died during the first fortnight of the session.

He at once took a high stand in the House as a debater, and a man of business. He was returned the two succeeding years by a triumphant vote, but not without strong and formidable opposition. In his canvasses in his county he always scorned the arts of the demagogue. His habit was to advocate boldly what he thought was right, and no man doubted his honesty. He never gave pledges, and therefore never violated any. At the end of three years' service he declined a re-election, but after an interval of one year more consented to serve another session—the most important one perhaps in the history of the state.

The next winter he was elected by an overwhelming vote of the two houses, judge of his circuit; the duties of which office he discharged to the entire satisfaction of the bar and the country, distinguished alike for his firmness, his patience, his impartiality and his humanity. The reports of the Supreme Court, which has reviewed such of his decisions as have been removed thence by appeal or writ of error, furnish the best evidence we can present of his general accuracy. No

existing circumstances—no popular bias—no personal feelings—ever disturbed his inflexible impartiality or his strong sense of justice. Uniformly urbane and courteous towards the bar, he always commanded not only the respect of its members, but their personal attachment.

He held this office until the spring of 1841, when he was invited to Washington to take charge of the General Land Office.

This place was tendered to him, as he always supposed, through the influence of Mr. Webster, then, as now, Secretary of State, and when first notified of it, no man could have been more surprised. After the close of his circuit, he repaired to Washington, and entered upon the duties of that very important office. We believe its affairs have never been administered with more ability or energy than during his incumbency. With great facility in the dispatch of business, and rare quickness in mastering details, he made himself familiar with its duties in an incredibly short period.

A vacancy having occurred on the federal bench in Indiana by the death of Judge Holman, Judge Huntington immediately applied to Mr. Webster and the President to offer the place to Judge Dewey, then on the bench of the Supreme Court, a man of distinguished ability and eminent worth.

The appointment was tendered to Judge Dewey without delay, which he declined on account of the smallness of the salary.

After Judge Dewey had declined the office, at the earnest request of a number of Judge Huntington's friends, among whom was Walter Forward, Esq., then Secretary of the Treasury, the office was tendered to him, though it was well known that the President and Mr. Webster were both anxious to have him remain in charge of the land office.

The unfortunate and angry controversies between the President and a portion of the whig party, commencing with the special session of 1841, and ending finally in the bitterest hostility, had already so inflamed the public mind, and poisoned society at Washington, as to render an official residence there disagreeable. Towards Mr. Webster, (whose motives for remaining in the cabinet after the resignation of its other members, he fully understood and appreciated,) he has always felt the strongest attachment. Towards President Tyler, a gentleman always kind and courteous to him, and who, as chief magistrate of the nation, had, unsolicited by him, placed in his hands a responsible public trust, he felt grateful; and he was willing and anxious to retire from a position where he must either take sides between friends, or leave his motives to misconstruction. It was under these circumstances that he accepted the office he now holds. He took his seat on the bench in May, 1842, and has never failed to attend every succeeding term during the lapse of nearly ten years, in which period the business of the Circuit Court has more than doubled.

We believe he commands the entire confidence of an able bar. As a judge, he is firm, dignified, and impartial—prompt, courteous, and always perfectly fair. He is proverbial for fairness towards counsel and parties in every stage of a cause; and no member of the bar ever questioned the accuracy and fullness with which he placed on the record any exceptions taken to his opinions.

Though a man of rather impetuous temper, he has always been distinguished while on the bench for his unfailing patience, listening with deference to every argument, however unsound in his judgment, and careful not to intimate an opinion in advance.

In the administration of criminal law he was always humane, distinguishing with sagacity between cases of great turpitude and more venial offences. While presiding on the Terre Haute circuit, during the period of about four years, he tried some dozen capital cases, in only one of which was there a conviction. It was the case of most atrocious murder, as the subsequent confession of the criminal proved. The prisoner, when brought up for sentence, was perfectly unmoved and tranquil. He was a middle-aged man, evidently of iron nerve, and seemed to await his doom with a composure almost amounting to indifference. The judge, though exhibiting no outward agitation, has been often heard to say, that he had no doubt that, of the two on that occasion, he felt the more appalled. In the administration of justice, no man could be more insensible to popular opinion than Judge Huntington. Profoundly attached to the institutions of the country, no man entertains a more habitual veneration for the laws of the land, upon the faithful administration of which everything valuable depends. At the November term, 1851, his charge to the grand jury, in reference to the Fugitive Slave Act, and which was so universally copied by the leading journals of the country, had a most powerful and beneficial influence upon public sentiment. His exposition of the law of treason, as applied to those organized combinations to resist the execution of the laws, we believe has since been followed by every judge who has discussed the subject; and while he was careful to make the distinction between cases of mere resistance of process in a single case, and resistance of the law itself, it had the effect to crush every scheme that had been formed in his own district, aiming at so mad an object. The bar asked for the publication of the charge; the grand jury responded to it in a unanimous report; and the constitutional convention of the state, then in session, on motion of Mr. Rariden, one of its leading members, and late member of Congress, from the "Quaker District," so called, adopted resolutions urging its observance by all citizens. Since that period, although a border state, we do not believe there has been a solitary attempt to resist the law in Indiana.

Few of the decisions of Judge Huntington have been reported, and but few have been reviewed by the Supreme Court. We learn, however, that he is preparing a considerable number for the press, and that they will probably appear in the 5th volume of McLean's Reports.

The portrait which accompanies this notice is a faithful likeness, and will give our readers an idea of his personal appearance. In stature he is about six feet; rather slender, but well formed and erect; and in his address and manners bears the unmistakable stamp of a gentleman. His voice is remarkably flexible and fine; and whether as a public speaker or colloquist, this advantage has always distinguished him.

We should be glad to add to our notice of him as a public man, from the materials at hand, a few of those personal incidents which reveal so accurately the personal traits of his character; but the design of

our work will limit us. As a private citizen, he is no less entitled to praise than as a faithful public officer—it is the perfect private citizen who makes the perfect public man. Within the last four years he has removed to a new residence, on the bank of the Ohio, near Cannelton.

During his vacations he finds employment on his farm, where he is surrounded by a young and beautiful family. With a competency that renders life easy, he there dispenses a generous hospitality with a graceful hand, marking the passing hours with their just proportions of utility and pleasure. Devoted to his friends, they are devoted to him. He is now forty-five years of age; and with a fine constitution, never abused by dissipation, but constantly improved by exercise and activity, he may be said to be the very picture of life.

What other honors there may be in store for him, it is not for us to conjecture, but we are sure that there are few men in the Republic more thoroughly unambitious of any other place than the one he now fills, if, indeed, there be any other more desirable.

As a citizen, he is full of public spirit, and in the community where so may years of his life have been spent, never failed to take a leading part in all public enterprise.

His success in life has been the result of his own exertions, and not of that good luck which the world (little understanding what the word imports) so often ascribes to those who rise unaided to distinction. No man knew better how to time his efforts; and while he never wasted his force on worthless and unattainable objects, he well knew when to take advantage of opportunities—and when once he decided, no man pursued his object with more fearlessness or energy. Free from all intolerance of spirit, he yet never fails to show his scorn of falsehood or meanness. Without ostentation, either in his manners or in his style of life, he always maintains the air and polish of a gentleman, and lives surrounded by all the elegance and refinements which are the type of a well-disciplined taste.

We commend his example to the young men of our country who yearn for honor and professional reward. There is a noble field in our great Republic for effort, where our institutions not only guarantee the freest competition, but invite it. At no time in the history of the world has the legal profession had so powerful a social and moral influence as at this moment. The profession has everywhere, and at all times, been the terror of tyrants, and always the friend of liberty; but in no country, and at no time, has there been so much need of an independent bar and an independent judiciary as in our country at this time; not only to uphold and vindicate the laws themselves, but to hold in check the tendency to professional and political socialism—a plant of European growth, which aims no less at the policy than the power of the law itself.

HON. JEREMIAH SMITH,

OF INDIANA.

Jeremiah Smith, the subject of this memoir, was born of poor and obscure parentage, on the 11th day of May, 1805, in Union District, South Carolina, near a place called the Cross Keys. His father's name was William Smith, his grandfather's, David Smith, and his great grandfather's, William Smith. His great grandfather emigrated from England to Bucks county, Pennsylvania, with the Quaker colonists, sometime between the years 1727 and 1735. He was a Quaker, and had two wives, and children by each, making seventeen in all. David Smith, the grandfather of Judge Smith, was one of the younger children of the younger set. He was raised in Bucks county, where he married Hannah Hibbs, daughter of Jeremiah Hibbs. They emigrated to South Carolina, some time before the Revolutionary War, and settled on Padgett's Creek, in the then district of Ninety-six, now in Union District, near what was then called Padgett's Creek Quaker Meeting-house. They lived there the remainder of their lives, members of the Padgett's Creek Monthly Meeting of the Society of Friends. Hannah, Judge Smith's grandmother, was a preacher of the society for a number of years before her death. His grandfather, David Smith, was a stone-mason.

William Smith, Judge Smith's father, was the tenth child, and sixth son of his father. He was born and raised on Padgett's Creek, and having served an apprenticeship to the blacksmithing business, under an older brother, he married Mary Kennedy about the close of the last century, and settled further up the country, near the Cross Keys. Here he lived, carrying on his trade, when Judge Smith was born. In 1809, he moved further down the country than where he had been raised, and settled on the north side of Enoree River, in the same district.

Of Judge Smith's maternal ancestors much less is known. His mother, Mary Kennedy, and her sister Sarah, (now wife of George Smith, of Noblesville, Ia.,) were the only children of their parents, Butler Kennedy and Sarah his wife, whose maiden name was Sarah Stokes. Butler and Sarah Kennedy both died while their children were young. They emigrated from some part of Maryland to South Carolina. Their children, Mary and Sarah, were raised by their maternal uncle, John Stokes, in Union District, South Carolina.

Judge Smith's first teacher was John Pearson, to whom he was sent in the winter of 1810–11. He was afterwards sent, for short periods, to two other schools, such as, in the parlance of the times and country, were called "Old Field Schools." During the war, a very flourishing institution of learning, called Mount Prospect Academy, was founded, and kept up in the neighborhood of his father's residence, on Enoree River, under the superintendence of James Campbell, as principal. To this institution Judge Smith was sent by his father, three years continuously, ending with the year 1815. Here the foundation of his education was laid. He went through the preparatory department, and

spent one session of five months, in the tyro class, in Latin, during which he studied Ruddiman's Rudiments of the Latin Language, Mair's Introduction to Latin Syntax, read *Historiæ Sacræ*, and about half through *Viri Romæ*, which was the second book in the series of Latin reading at that institution.

At this school he was associated with some who have since distinguished themselves and shed honor on their *alma mater*, among whom can be named John K. Clowney, Patrick C. Caldwell, and Franklin H. Elmore, all afterwards members of Congress, and Dr. Richard Wynn Smith. Judge Smith, however, was much younger than any of them.

In 1816, Judge Smith, who was then 11 years old, was taken from school by his father, and placed on the farm to plow through the season. During this season his reading commenced without any one to guide or direct him. His father had bought him Franklin's Way to Wealth, and his Life written by himself. There were also in the family, Weems' Life of Washington, and Life of Marion. These, together with a copy of the Arabian Nights' Entertainments, borrowed somewhere, made up his season's reading. During this period, too, he got his first notions of arithmetic from a younger brother, who was continued at school studying arithmetic.

During the year 1816, his father sold his possessions in South Carolina, with the intention of emigrating to Indiana, which he did in the spring of 1817. During the summer of that year, his father resided on Green's Fork, in Wayne county, Indiana, two or three miles above where the town of Washington now stands. In the fall, he removed to lands he had purchased from the government, on the head of the West Fork of White Water, in what is now Randolph county, Indiana. Here he settled in the green woods, the outside settler, his lands immediately adjoining the Indian boundary, and with but few settlers near him. For the next five years, Judge Smith suffered great hardship and privation. He was put to hard labor by his father in subduing the dense and heavy forests, and clearing out a farm. His exposures to the inclemencies of the weather and severities of the climate, with poor clothing, brought on the rheumatism, with which he was much affected, till it seemed to be assuming a permanent chronic form, and like to make him a cripple for life. On this account, his father, in the spring of the year 1823, gave him his freedom, and told him he might go and do what he could for himself, as he was too poor to give him any help.

Judge Smith then, in the spring of 1823, when he was not quite eighteen years old, with the chronic rheumatism seated in both his knees, and they swelled and stiffened so that he could hardly walk; without a penny in his pocket, and with but little clothing and that very inferior in quality, commenced his career in the world, having nothing but himself to rely upon. But though in the woods of Indiana he had had but few books to read, his Franklin books were among them, and these he had almost literally memorized. Franklin, and his maxims and essays, he took for his guide, and having an indomitable resolution, he believed that what others had done he could do.

He obtained a country school near Richmond, Ia., and taught nine months. During that time he studied arithmetic, which he had not

before learned, revived his knowledge of English grammar, which he had studied in South Carolina; studied Watts' Logic, Watts on the Mind, Locke's Essay on the Human Understanding, and Paley's Moral Philosophy, besides making some proficiency in music.

In the spring of 1824 he went back to his father's, having become measurably relieved of the rheumatism, and engaged with his father and an older brother in the wagon-making and blacksmithing business, each to have an equal portion of their earnings. In the fall he gave them his share of the season's work to take him to a school in Maury county, Tennessee, which they did in November or December of that year.

Here a new scene opened up to him, and a new era in his life commenced. William L. Willeford, A. M., who then kept a private mathematical and grammar school at the head of Fountain Creek, in Maury county, Tennessee, and who was his uncle, having married his father's youngest sister, had invited him to enter his school. He had accepted the invitation, and had now got there without money (having only seventy-five cents when he was left there by his father) and but poorly clad. He made an effort to obtain a school to raise funds, but his ungainly appearance, and the repulsive idea that an Indianian could teach Tennesseeans, made the attempt fruitless. His uncle Willeford kindly offering to board him and furnish him his tuition, and wait till he could afterwards make the money to pay him, he commenced his studies a few days before Christmas, 1824. He continued a year and a half at that school, pursuing his studies unremittingly, and making very rapid progress. During that time he completed the full course of mathematics taught at that school, commencing with Simson's Euclid, and ending with Vince's Fluxions. He also stored his mind with much useful general reading, particularly from Nicholson's British Encyclopædia, a copy of which was in his uncle's library.

While at this school he formed an acquaintance with the Hon. Terry H. Cahall, late Chancellor of the middle district of Tennessee, who was at the school a part of the time that Judge Smith was. Their acquaintance ripened into friendship, which induced them to keep up a correspondence long after their separation.

In the spring of 1826, Judge Smith having finished his course of studies, made another effort to obtain a school, and was more successful. He taught school nine months near Columbia. While there he read Blackstone's Commentaries, a copy of which was furnished him by Edmund Dillahunty, Esq., now Judge Dillahunty, who also kindly gave him such aid in his reading as he desired. He also studied Blair's Rhetoric and Belles-Lettres, and read the Spectator, with a view to improve his style. He also maintained an extensive critical correspondence with some of his former school associates with a view to improve himself in composition. He formed acquaintances with, and was introduced into families, whose society was not only agreeable to him, but was very serviceable in preparing him to enter the great world of mankind.

Having, by his school, made enough to pay his debts and take him home, he settled with his uncle Willeford, with a grateful heart for the

kindnesses he had received at his hands. He has often since been heard to speak in warm terms of gratitude of his uncle and aunt Willeford, and he still cherishes a very lively feeling of regard for them. In the spring of 1827 he hired a cotton-wagon to haul his trunk, and went on foot to Nashville, where he took steamboat and traveled by water to Cincinnati, whence he walked to his old haunts in Indiana.

During the summer of 1827, he continued his law reading some; but his father, who had long been a member of the Regular Baptist Church, was of the opinion that the practice of the law was inconsistent with sound morality; therefore, partly in deference to his father's opinion, and partly because he conceived that the profession of teaching would be in sufficient demand in the country to make a living at it, he abandoned the idea of making the law his profession, and with the idea, he abandoned the study.

In the spring of 1828 he was elected principal of the town school, at Richmond, Ia., which place he accepted, and took charge of the school in May. In the March following, he left it, and with it he abandoned the idea of making teaching a profession for life.

While at Richmond, Dr. John T. Plummer and Dr. William B. Smith, then Dr. Plummer's student, and Judge Smith, formed a club for the mutual improvement of all, by which Judge Smith acquired some knowledge of chemistry and botany.

In the spring of 1829 Judge Smith purchased a surveyor's compass, and entered upon the business of land surveying; thinking that people would pay for having their lands marked out, if they would not for having themselves and children instructed. He succeeded, and finally got some contracts for surveying government lands in the northern part of Indiana, the first and largest of which lay in the great Kankakee marsh; being obscure and friendless, he had to take the refuse contract of the whole purchase.

In December, 1832, he married Miss Cynthia Dye, a lady of fine personal attractions and good sense. She was the daughter of John Dye, then of Windsor, Ia., but who had recently migrated from Miami county, Ohio. On his marriage, Judge Smith settled in Winchester, Ia., where he still resides.

He was elected sheriff of Randolph county, in 1833, which office he held for one term of two years, and declined a re-election, having concluded to resume his law studies, which he did while acting as sheriff.

He was licensed by Judge (afterward governor) Bigger, in 1836, and at once entered upon the arduous and responsible duties of the profession. Although surrounded by circumstances of the most embarrassing character, he labored with an untiring industry and indomitable perseverance, which soon placed him in the front ranks of the profession. He overcame difficulties which would have overwhelmed a less ardent and energetic mind. His success soon obtained for him a lucrative practice in the profession, which continued to increase till he was elevated to the bench.

In the winter of 1839–40, he was elected by the legislature of Indiana prosecuting attorney for the eleventh judicial circuit of the state. The duties of this office he discharged with much ability and success,

for two years. At the end of his term, he declined a re-election, and resumed the civil practice, having been admitted to the bar of the Supreme Court of the state, at the May term, 1840.

He was elected by the legislature president judge of the same circuit, in the winter of 1845–6, and at once took upon himself the labors of that responsible position. Naturally ambitious, persevering and energetic, he entered on the discharge of his duties with a desire to faithfully administer the law to all, without regard to wealth or poverty, place or position. The circuit over which he presided was composed of six counties, to which two others have since been added, in each of which two terms are held annually; and most of these terms are of two weeks duration, thus showing more than six months of each year occupied with the active duties of the bench, often deciding near one thousand causes in going once around the circuit, while his vacations were occupied in the investigation of important cases and points of law, taken under advisement from the preceding term. It is in the capacity of judge that his enviable traits of character sparkle with the most brilliancy, and are most seen, admired and appreciated by his fellow-citizens. His career exhibits depth of research and integrity of purpose, and a determination to administer, without partiality, equal justice to all. Like other itinerent judges, he was often called on to decide and apply the doubtful principles of the law, under circumstances where he could not have the assistance of libraries and legal precedents. Decisions on the circuit are to be made on the calls of the moment; and to meet the emergency requires not only a store of legal knowledge, but a clearness and depth of judgment to grasp the real points in controversy, and a promptness in applying the established principles of law to the facts of the particular case. In these qualities Judge Smith excels, and it is this chiefly which has made his judicial career alike honorable to himself and useful to his fellow-citizens. His mind is logical, deep, and penetrating. He at once sees and comprehends the most subtle legal principle, and is, by the same precision of mind, enabled to apply it to the facts of the particular case. Caution, however, is a prominent trait in his character as a judge. In important and difficult cases, he does not rely upon the opinions of counsel, or his own recollection of the law, choosing to examine the books for himself, and fully deliberate before deciding.

His industry is untiring, which, with a fine constitution, enables him to accomplish an amount of labor that few men are equal to. His highest ambition has been to excel in his profession, and render himself useful in the administration of the law; and to attain this object, he has been engaged in pursuing his legal studies with unremitting assiduity ever since he entered upon his professional life.

Judge Smith, in his intercourse with his fellow-citizens, is affable and courteous; and to suitors and members of the bar he is unusually kind and accommodating. With the younger members of the bar he is a particular favorite. To them he has become endeared, by giving them assistance and encouragement. He appears to take a pleasure in giving them any assistance in his power, not inconsistent with his duties as judge.

In the winter of 1850–51, on account of the inadequacy of his salary

to support his family, he contemplated resigning, and resuming the practice; when the bar of his circuit, almost unanimously, requested him to remain on the bench, which induced him to do so. This is mentioned as an evidence of the esteem in which he is held by the bar of his circuit.

In politics, he is a consistent democrat of the old school, and as such has long exercised a commanding influence; but as a judge, he knows no man as friend or partisan. He has many warm friends among his political opponents.

In the midst of his other labors, he has found time to do much to develop the resources of his county and state. By his energy and industry, as one of the directors of the Indianapolis and Bellefontaine Rail-road Company, he has greatly aided in pressing that work to completion.

Plain and simple in his manners, without ostentation or vanity, he moves through life, controlling and influencing others only by the force of his example, and the powers of his reason. As a private citizen, he has always been a consistent and unflinching advocate of public morals, and has never in any way given encouragement to any of the vices to which too many of the profession are addicted. His is one of the many bright examples which our republican institutions afford of the reward bestowed on merit, and of the youth of our country rising from obscurity to stations of usefulness and honor.

HON. THOMAS IRWIN,

OF PENNSYLVANIA.

The subject of this memoir was born in the city of Philadelphia, on the 22d of February, 1785. His father, Col. Matthew Irwin, emigrated from the north of Ireland in the year 1767, and soon after entered largely into the mercantile business as an importer, in which he successfully continued until the commencement of the Revolutionary War, when he received the appointment of captain and quarter-master in the Pennsylvania line. He remained with the army in various employments, and served with distinction until the peace of 1783. In the year 1785 he was appointed recorder of the city of Philadelphia, and after the adoption of the constitution of 1790, master of rolls of the state; these offices he continued to hold until his death in March, 1800. At the most gloomy period of the Revolutionary War in December, 1777, when the army was encamped at Valley Forge, destitute of provisions and clothing, one-fourth of the number unfit for duty, disorganized, and returning to their homes by companies, and the government was without any means to relieve them, from fifty to sixty patriotic men of the city of Philadelphia, among whom is the name of Matthew Irwin, as appears by a document filed in the war office, saved the army from total dispersion by very large subscriptions, which provided funds for its temporary support. Col. Irwin's subscription was £5,000, Pennsylvania currency. The mother of Judge Irwin was a daughter of Benja-

min Mifflin, whose grandfather, John Mifflin, in company with William Penn, emigrated from England, and settled near Newcastle, in the state of Delaware, in the year 1682. All the male descendants of Mr. Mifflin who were old enough at the beginning of the Revolutionary War took an active part in its support; they were conspicuous among what were then called the "fighting Quakers;" one of them, Thomas Mifflin, was a brigadier-general in the continental army, and the first governor of Pennsylvania, under the constitution of 1790.

Judge Irwin was the fourth son of this union. At the death of his father he was a student at Franklin college in Lancaster county; he had for several years before that time been a Latin pupil of the celebrated Professor Davidson, one of the best classical scholars of his day, and for a long time professor of languages in the University of Pennsylvania. Mr. Irwin left Lancaster for Philadelphia in 1803, with an imperfect education, but with a solid foundation for future acquirements. His father, in consequence of large endorsements for a near relation who had failed in the mercantile business, left but a small and encumbered estate, and a widow and six children dependent upon it for a maintenance. It was too small for their comfortable support, and the judge relinquished his portion to his mother and sisters during their several lives, except a share in the city Franklin library, with a determination to which he strictly adhered, to rely upon his own exertions for subsistence and a profession. His share in the library, then probably the largest and most valuable collection in the Union, was invaluable to him. The library was his school and college, and by close application and intense study, chiefly of the classics and the best English writers in every department of literature, seldom passing a day without "line or book," he was, in less than two years, qualified for competition with those who had academical training and degrees. He accepted a proposition from an esteemed friend to become the editor of a weekly literary paper, called "The Philadelphia Repository," which had a good circulation; and from the early part of the year 1804 until his admission to the bar, he continued in this employment, and which, by strict economy, afforded enough for his maintenance. It gratified his taste, and was not only a profitable, but an agreeable relaxation from study. He is the author of most of the original and miscellaneous essays which appeared in that work. In the year 1805 he entered the office of Boyse Newcomb, Esq., an eminent lawyer of Philadelphia, as a student, and early in January, 1808, was admitted to the bar. Several reasons concurred at this time to induce him to choose the state of Louisiana as the most eligible for his professional pursuits; among others he was offered by President Madison an appointment in the Indian department established at Natchitoches. This appointment he accepted, and was commissioned on the 23d of January, 1808. In August following he reached that town. It was then a military post, to which was attached three companies of infantry and one of artillery, commanded by Col. Constant Freeman. At this place there was little harmony among the officers, and arrests, often upon serious charges, were of constant occurrence. On one of these occasions, soon after Judge Irwin's arrival, he was appointed judge advocate, and, as they recurred, found in that situation useful professional employment for a consider-

able portion of a year. His duties in the Indian department occupied but a small part of his time, and his professional prospects in the parish, which was one of the most wealthy and populous in the state, were all that he could desire. But in the summer of 1809 he was attacked by the endemic disease of the climate, and suffered severely from it for several months, sometimes with little hope of recovery; the disease, however, left him, but in so feeble a state as in the opinion of his physicians to make a change of residence necessary. He therefore resigned his office and returned to Pennsylvania the following year, and in the fall of 1811 settled in Uniontown, Fayette county, in the south-western part of the state. In April following, he united himself in marriage with Miss Walker, a lady of that town, of great worth, beauty and accomplishments; and finding his prospects of business in the circuit much to exceed his expectations, he applied himself closely to it, with unshaken resolution to sacrifice ease, amusement, and every other allurement, to his profession. The natural and usual result followed:—eminence in his profession, competence, and popular confidence.

In the year 1822, the Chesapeake and Ohio Canal Company having completed their surveys to the Ohio, by several routes, had decided to prefer, from Cumberland, the Youghiogeny valley to Pittsburgh. This valley is partly in the county where Judge Irwin then resided. Their object could not be effected without the consent of Pennsylvania, and this they had endeavored to obtain at two succeeding sessions of the legislature, commencing in 1823 and 1824; but from mistaken policy, or contracted local feelings and interests, it met at both sessions with successful opposition from the city of Philadelphia and other parts of the eastern section of the state. It was a matter in which various and essential interests were supposed to be involved, and occasioned not a little excitement in Fayette and in the several adjoining counties, and it was determined to make another and last effort to obtain the consent of the state at the session of 1825–'26. A state convention had been held at Harrisburgh a short time before, to devise and recommend to the legislature measures for the internal improvement of the state; and influenced chiefly by the success of the New-York canals, strong resolutions were passed by that body urging the legislature to commence the work without delay, by the passage of a law for opening a canal from Harrisburgh to Pittsburgh. Judge Irwin was a member of this convention, and expressed himself in favor of this single project; and as this measure, in connection with the proposed Chesapeake and Ohio Canal extension were considered of the first importance to the people of Fayette county, he was solicited and consented to suffer his name to be used as a candidate for the legislature. He was elected, and at the session following, the same powerful opposition which had twice defeated the Chesapeake and Ohio bill was again made, but with a different result. The bill passed, and its success was acknowledged to be chiefly, if not exclusively, owing to the untiring exertions on the floor of the house of Judge Irwin. In the fall of 1826, Judge Irwin was again elected to the legislature.

The session which followed will long be remembered for the important laws which were enacted, leaving their impress ever since, not

alone upon the statute book, but upon all property in the state, real and personal, of every description, and which it is feared that the lapse of a quarter of a century will not efface. It was the commencement of the expansive, prodigal, and ruinous schemes of internal improvement, which created a debt exceeding forty millions of dollars, the paralyzing effects of which upon the prosperity of the state, and the profligate legislation to which it led, are so well known and so deeply felt, as to make superfluous any notice of them in this place, further than to show the active part which Judge Irwin took in opposition not to the bill which provided for carrying into effect the resolutions of the convention, but to a proposed amendment, which authorized the construction of a canal by the west branch of the Susquehanna to Pittsburgh, a project gigantic in itself, but pregnant with many others of a like nature, which, after an enormous expenditure of money, were left unfinished, or sold to companies for a tenth part of their cost to the state. Although about one-third of the house voted with Judge Irwin against the amendment, he stood alone in debate, in every stage of its progress, endeavoring in vain to defeat it. One of his speeches is reported at great length in a Harrisburgh paper of the day, which is remarkable for elaborate argument, correct estimates of expenditure and foreshowing results, which in a very few years afterwards became history. The following extract from this speech may be applied to other times as well as to the occasion it refers:

"The amendment will, if successful, not only involve unnecessarily and fruitlessly an expenditure to the state, not less than what is proposed for the whole Juniata route, but it will open the way for similar amendments and new projects, strictly of a local and subordinate character, which can in no other way succeed than as offerings to those who will not upon any other terms support the original bill. The example, if successful, will be fatal not merely as regards the expenditure of money, but what is far more to be dreaded in its consequences, immediate and remote to the purity and integrity of legislation. What position now have we assumed? There seemed at the meeting of this body to be but little difference of opinion as to the necessity and propriety of vigorous exertions to carry into effect the resolutions of the convention which assembled in this house, and which met with the entire approbation of our constituents. They point to a single object, a canal from this place to the city of Pittsburgh by the route indicated by the bill. But it is too apparent, although there is no actual change of opinion in the majority, that it will not receive the support of some who compose it, without an appropriation to be so applied as to prevent a future change of route; while others openly declare that their votes in its favor depend upon the adoption of an amendment of immense magnitude, which, it must not be concealed, is not for the public advantage, but for sectional, if not for private benefit. It is a price demanded for the support of a bill which at first was free from objection, while all acknowledged that the best interests of the state required from us immediate action in its favor as reported, without being incumbered by amendments, which, if successful, may render its passage doubtful. But individual interests have been invoked by a local constituency, and the great measure of the session must fail, or

succeed with an *incubus* and its embryo brood. This is the beginning; with what experiments it will end no man can tell: certainly not until the magnitude of the state debt becomes appalling, and the people begin to feel its effects by taxation, but it is to be feared too late for relief. The estimate of the chairman of the committee on internal improvement is three millions for the completion of the whole work to Pittsburgh. I will not dispute his figures; but let the amendment pass, and it will not be many years before it will be necessary for the state to provide means for the payment of a debt of thirty millions. Hitherto our legislation has been pure and unsuspected; but when vast loans are to be effected, and the government, now free from debt, is compelled to go into the market with bankers and stock-jobbers—when contracts of vast amount are to follow, is it to be supposed that those who may have the control of these operations will use their power with reference only to the public interests? Or is there not reason to fear that individual interests will first be consulted, and that no legislation can prevent an abuse of such power? With the best motives, favorites and partisans must be preferred; and no vigilance will prevent fraud and corruption to an extent, the bare mention of which now might be repelled as calumny, and denied to be possible, but which may become too common for remark or surprise."

The bill passed as amended; there were too many temptations prospective schemes to be counteracted by argument, or the opinion of any man.

Judge Irwin took an active and leading part in all the prominent measures of the two sessions of the legislature of which he was a member, and retired with a high reputation, and the esteem and confidence of his constituents.

He declined another election. In the fall of 1828 he was elected to Congress by a large majority, and took his seat in December, 1829, and was subsequently appointed a member of the committee on internal improvements. Several important bills were reported to the house by that committee, which had his sanction and support; having many years before adopted the opinion, that for national purposes there is no limit by the constitution to the power of Congress to authorize the opening of roads and canals, as well as to improve the navigation of lakes and rivers. His first speech, which is published at length in the Register of Debates, was in support of a bill for making a national road from Washington City through Harrisburgh to Lake Erie, in which is very fully discussed the constitutional power of the government over this subject, the practice under it, and the expediency of the bill.

Before the close of the term for which he was elected, Judge Wilkins, who was District Judge of the United States for the western district of Pennsylvania, resigned that office, having previously been elected to the Senate of the United States. President Jackson appointed Judge Irwin to fill the vacancy. This appointment he continues still to hold.

A few of Judge Irwin's opinions on unsettled and important questions of law have been published, and may hereafter be noticed. In several counties of his district there was great opposition to the Fugitive Slave Act of 1850, which led to riots and the rescue of some slaves, to punish

which, bills were presented to the grand jury, at June term, 1851. On this occasion the judge delivered a charge, which, at the unanimous request of the jury, was published, and widely circulated throughout the Union. The power of Congress under the constitution to pass the act, its policy and expediency, are ably examined and sustained. Its supposed conflict with the "higher law" is also noticed, a short extract from which will close this memoir.

"Much of the opposition and resistance to the law may be ascribed to a new discovery in ethics; that there are obligations and duties depending upon the dictates of conscience of a higher nature than the laws of our country, and to which obedience is due when in opposition to the laws. It teaches that no human laws are binding, but should be disregarded and resisted, whenever contrary to religion and morality. History is not wanting in examples of this kind, to prove that the most obvious truths and the soundest maxims of government and jurisprudence, which declare and maintain the essential rights and interests of society, require at times to be re-taught and re-established. Life, liberty, and the pursuit of happiness, the vital objects for which men unite in society, are declaratory in the constitution of natural rights, and laws are made to secure them; which laws there is an implied mutual contract and pledge to respect and obey by all who compose the society. This is the foundation of moral obligation to support the laws, without the observance of which, their force, efficiency and effect, would be greatly impaired, if not entirely disregarded.

"It was to guard against the infraction of these rights, by such as in all communities use the name of liberty for license to act without restraint; who acknowledge no social ties and interests; and who can only be controlled by fear or force, that made punishments and penalties, the sanctions of law, necessary. For all others, composing the great majority of society, the restraints of law were not necessary; what it commands or forbids is enough to insure general obedience.

"The social ties and interests are secured by the social Union, itself sustained by moral as well as physical force; so that there can be no antagonist moral duty or obligation binding upon the conscience in opposition to the laws. In the social state, every man knows, without law to teach him, that to take from another his property, forcibly or secretly, without his consent and without compensation, is contrary to natural right, dishonest and criminal. It is the moral principle in all such cases which creates the guilt; it is the province of the law to punish it. The moral sense is the intuitive preception of right and wrong, written upon the heart by the Creator of the Universe, and all the fundamental laws of a civilized and free people are but an emanation or embodiment of moral duties. Such laws are confirmatory of natural rights, and their moral is not less than their legal force; yet the impress and force ascribed to them, must from necessity be extended to all other laws organic and positive, which are so interwoven in the frame of society and its interests, as to render any distinction between them, in regard to their obligatory character, in the highest degree dangerous.

"One law may be regarded by some men as wise, good and salutary, and by others useless or unjust, as they may happen to differ in intelligence or capacity, or in interests, motives and prejudices. There is in

all such cases but one safe rule for society—to regard practically all laws, however they may differ in character or importance, as equally entitled to respect and obedience, and that resistance to any law as not only a breach of that law but a violation of moral duty; and as there cannot be conflicting moral obligations, there will be no 'higher law' to prescribe a different rule of action. But this 'higher law,' it is said, appeals to the consciences of men, which, by enabling them to discriminate between right and wrong, furnishes an infallible rule. Certainly there could not be a more infallible rule, or an agent more powerful, if generally brought into action, to render any law inoperative, which may be contrary to the rule in the opinion of its advocates. Men of tender conscience, and men who know it but by name, the scrupulous and the unscrupulous, the fanatic, the agitator, the reformer, and others with kindred and opposite motives, though agreeing in nothing else, would, in support of the 'higher law,' find fellowship and communion, as the 'still small voice' might dwell in the heart or be assumed by the tongue; whether sincere or simulated, it could seldom be unveiled by human agency. Concession, if less than an abandonment by either party of all they contend for, would be utterly fruitless. But we have read history to little purpose if we are not admonished, and a prudent forecast would prepare for the result, that men under such dominion, and animated to action by motives and prospects so various and tempting, never willingly obey a law obnoxious to their assumed standard of faith and of right.

"The remedial provisions of the act of 1850, though in themselves offensive to many, yet if alone the cause of the opposition to the law, would in due time have been satisfactorily explained to all disposed to uphold the constitution. To others with ulterior motives and projects, there is reason to fear that they have but afforded a pretext, eagerly seized, for a movement against the principle of right which the law recognizes, which, associated with others of a similar nature, have long been equally the objects of deliberate, fixed and hostile action. Does any one believe that any other law for the delivery of fugitives from labor to their owners with any efficient provisions, would meet with greater favor than the present law? Or is there not abundant reason to conclude that an organized and determined opposition and resistance will be encountered by any law to give effect to the 4th article of the Constitution.

"The fallacy of the 'higher law' did not, it may be thought, in this place, merit any grave notice; but it has found bold, able, and strenuous advocates, and has done much to peril the peace and safety of the community, and to obstruct the law in this, as well as in other judicial districts. The misled should be made sensible of their errors, and solemnly warned that there will be a decisive, firm, and energetic execution of the law."

HON. GILBERT DEAN,

OF NEW-YORK.

A FEW years since, in a quiet little village appropriately named Pleasant Valley, situate in the county of Dutchess, state of New-York, might have been seen, at the district school, a boy of fifteen, a native of the place, whose knowledge of books was exclusively confined to the arts of reading and writing—whose geographical instruction had been derived principally in fishing and hunting expeditions in the neighborhood, but who was an adept at the sports taught in the vicinity of the school-house before and after the hours devoted to learning. He had never mastered the multiplication table, consequently arithmetic was an abhorrence; and as to grammar, he had no conception of any tense but the present. His deficiencies in these scholarly attainments were, however, in his own estimation, amply compensated by his precocious proficiency in *manly* accomplishments; for he could swim farther, run faster, jump higher, than any boy of his inches. About this time an incident occurred which changed the current of his life. From that hour "a change came o'er the spirit of his dream." By constant application to studies which had been before neglected, he was soon fitted to enter upon an academical course preparatory to admission to college.

In May, 1837, he entered the Amenia Seminary, in Dutchess county, then under the superintendence of the Rev. Davis W. Clark, D. D., now of Poughkeepsie, and, in September of the same year, entered the Freshman class in Yale College—that mother of statesmen, scholars, and jurists. In August, 1841, he graduated at that institution with distinction as a scholar, and a high reputation in his class and throughout college as a clear and logical reasoner, a ready debater, an original and independent thinker, and a strong and correct writer. His college career is often spoken of by his class-mates as characteristic, and as shadowing forth the course of his subsequent life. While he devoted himself with assiduity to the studies of the recitation room, and maintained an elevated rank in the collegiate course, yet his chief delight was in the exercises of the numerous literary societies. So thorough was his acquaintance with the under-graduates, then numbering about four hundred, that he knew every one by name, and many in each class intimately; and in college politics he was entirely at home. He studied law in Pine Plains, in his native county, and while there, was admitted to the bar. In the spring of 1844 he commenced practicing his profession in Poughkeepsie, the county seat, where he has ever since resided.

He early married Miss Amelia Smith, of Sharon, Connecticut; a most amiable and accomplished young lady, who died in 1850, beloved by all who knew her.

From the period of Mr. Dean's admission to the bar, until his election to Congress, he devoted himself with untiring assiduity to the practice of his profession, never allowing pleasure or recreation to

encroach upon the hours of business. At the time he commenced in Poughkeepsie, there was probably no bar in the state which, in the same number of members, contained a more formidable array of legal skill and real ability. Hon. Charles H. Ruggles, now Presiding Judge of the Court of Appeals of the State of New-York, was at that time the circuit judge and vice-chancellor residing at Poughkeepsie. It was to his acute and discriminating judgment that all arguments, both in law and equity, were to be addressed ; and it is due to him to say in this connection, that his ear was open to the young attorney, presenting his first case, with the same attention as was paid to the barrister of twenty years' standing. At the bar of that county, at that time, and in full practice, were those veteran lawyers, Henry Swift, Stephen Cleveland, Hon. Charles Johnston, the eloquent Robert Wilkinson, and the Hon. Seward Barculo, now Justice of the Supreme Court, and many others, not, perhaps, as widely known, but men of real learning and sterling ability. For a young man to acquire a standing merely, at such a bar, among such men, is proof enough of his talents ; for in the legal profession alone, " success is the true touchstone of desert." In medicine there is much, very much quackery—if the patient lives, the physician claims the credit ; if he dies, it is a dispensation of Providence. In the pulpit, the ready and fluent speaker can easily acquire a reputation which could not exist an hour at the bar. For the preacher has no one to deny his assertions, or contest his propositions. His sermons are delivered to audiences who are of the same opinion, and who have no interest in showing the fallacy of his reasoning, or ascertaining whether he reasons at all. But the lawyer has a keen and watchful opponent, an inquiring jury, a learned and impartial judge. All these ordeals will test his capacity and determine his merit.

He is obliged to keep his mind every instant on the alert, and must decide, at first sight, what course to pursue, as the case of his adversary is developed. No man can trade long in such a place, on " borrowed capital."

Mr. Dean, instead of being compelled to wait, as most young lawyers are, for years, before obtaining an opportunity to prove whether they have made choice of the right profession, found himself immediately in a large and profitable business. It is principally as an advocate that he has won his professional laurels, and as a successful criminal lawyer he is not surpassed. While his addresses in summing up a cause are all argumentative and strictly logical, yet in appealing to the feelings and passions of a jury he is seldom rivalled. He never addresses a court, or jury, for the purpose of making a *speech*, but *talks* to them for the purpose of influencing the feelings, or convincing the judgment that his case is right ; he forgets himself and his own interest in his cause, and devotes his utmost energies for the success of his client, leaving his own reputation to take care of itself. He holds it a breach of professional duty in a lawyer to allow any considerations personal to himself to interfere with success in the cause of his client—to that, and that only, should he devote himself. By this habit he has lost some fair-weather friends, but has gained many clients and more causes.

Mr. Dean is peculiarly a representative of "Young America," not only in Congress, but in his profession. He is ever willing to take the inexperienced practitioner by the hand, and aid him in every possible manner; and the young men appreciating this trait in his character, have always been his friends. In 1850, the writer of this biographical notice wrote him a letter congratulating him on his nomination, and we consider it no breach of confidence to publish the following extract from it: "The patriarchs of the party think me too young—they have an idea that the world has been stationary for the last twenty-five years—that it has really forgotten to revolve—that a man is never ripe until he's rotten, and that wisdom was born and will die with them. What this feeling will amount to, I don't know; but if the 'Young Democracy' stand by me, as I believe they will, we'll show them a race in which the colts will not come out second best." It is not necessary to say, that the "Young Democracy" did stand by him, nor that the colt did not come out second best.

Mr. Dean is a democrat of the progressive school, but not a destructive nor impracticable; indeed, he is entirely practical and practicable, and wholly free from all those dangerous theories which have been embraced by so many of late, and which are fatal to the rights of property and the very existence of society. As an instance proper to be noticed in a work of this kind, we would cite the bold philippic which he delivered in Poughkeepsie, on the subject of "Law Reform," in 1847, when almost every newspaper in the state was running mad for change. After pointing out most distinctly the difference between alteration and improvement, and demolishing the theories of the innovators, he speaks in becoming language of the preposterous idea of allowing every man to practice as an attorney without previous study, or an examination, thus: "But our reformers tell us, that they stop not with the language of the law, they would by legislation make every man a lawyer. Nonsense. As well may they by legislation make every man a poet or philosopher, or change the color of his skin. They know not that the profession of the law is a science—that it is founded upon principles as deep and broad as truth and justice—that its superstructure has been reared by the wisdom of every age since Moses, the great lawyer of the Hebrews, expounded his statutes. That in its study and improvement, such minds as Coke and Eldon, and Mansfield and Story, have been a lifelong engaged. That its only object is to establish the right and to punish the wrong—that this science derives its existence from the very nature of things. Talk about making lawyers by an act of the legislature here in Dutchess county, the native soil of Thompson and Spencer, of Oakley and of Kent—dare any man whisper it here, within sight of our court-house, that has witnessed the efforts of these, and other similarly gifted minds, grappling with and mastering subjects, beneath which the pigmy intellect of these noisy reformers would sink like a reed beneath the giant tread of the tornado? Make every man a lawyer! Yes, you may, when legislation can make a man a scholar; when it can impart to ignorance learning and experience, and when mortal volition can create mind! If the legislature is not a corporate Jupiter, containing in its capacious brain legions of armed men, who, Minerva-like, are to spring forth, full grown, trained and ready for any emergency—the

world must roll on its accustomed orbit, lawyers and doctors, priests and printers, must by study, by steady and unwearied application, by the slow progress of years, gain that mental discipline, 'that linked armor for the soul,' which can alone prepare them for their respective callings. Any other course would be as disastrous to the people as disreputable to the profession. All experience shows that in the law as in everything else, there is not—there can never be—a 'royal road to learning.' "

Let all young men who read the above, consider it well. Now that the facilities for entering the profession are so great, and that the examination is a mere farce—there is danger that many, very many, too eager for early admission to the bar, may begin before they have had the requisite training—before they have studied and mastered the principles of the science. If they do it, and make their first appearance in the courts, and fail, they are ruined, and all hope of future advancement is gone.

Of Mr. Dean's congressional course it is hardly proper here to speak, as it is but just begun—the present being his first session—and this being the first time he was ever a member of any legislative body. He has as yet avoided the rock on which so many young men accustomed to speaking, and who are regarded as orators at home, have split. These ordinarily enter Congress—think making speeches their first business—no one listens to their eloquence—they become dissatisfied and discontented, neglect their duties, abandon public life, and return home disappointed men. Mr. Dean has not hesitated from the very first day of the session, when he believed that the interests of his constituents required it, to make himself heard—nor has he dodged or refused to vote on any question of public interest. Although devoted to his profession, he does not forget literature and science—he is a constant contributor to the periodical literature of the day,—though his efforts in that line are mostly of the caustic or criticising character. He hates sham, the whole family from Alpha to Omega—and when he sees it in literature, society or politics, his tongue and pen express the feelings of his heart. As a private citizen, he is esteemed and respected; as a man, his character is without reproach, and his friendship is not mere partiality, but devotion; and if any young man entering upon this or any other profession asks to what his success is attributable, we answer, not to influential or partial friends, not to birth, not to inherited wealth, nor yet to accident, but to industry, energy and perseverance, joined to a life of the strictest morality and integrity.

And the success of such as the subject of this memoir is the noblest commentary on our free institutions. It is enough to endear them to the heart of every father who has sons for whose future welfare and advancement he hopes—enough to render them sacred to every young man who has his own destiny to achieve. Of his professional and political future, we cannot better speak than by quoting the language of a cotemporary :—"Mr. Dean has marked the advent of his public career, by an exhibition of candor and firmness, which makes his future big with promise."

HON. R. E. B. BAYLOR,

OF TEXAS.

It is a sacred and pleasing duty to commemorate the acts of men in a public capacity, who, by their high intellectual and moral worth, act as stern-lights in the great ship of human progress and experience; lights that guide and give an impulse to future generations from the results of the past. The subject of the following memoir, Robert E. B. Baylor, was born on the 10th of May, 1793, in Lincoln county, Kentucky. His father was Walker Baylor, who commanded Gen. Washington's life guards at the battle of Germantown, where his foot was crushed by a cannon shot that disabled him for life. His father's brother, Col. George Baylor, bore the English ensigns, won on the glorious fields of Trenton and Princeton, to the American Congress, with a highly complimentary letter from the commander-in-chief, who spoke of Col. Baylor's services as "gallant and spirited" in those memorable actions. Congress voted him, in consequence, a horse and sword. Gen. Washington, as a token of his confidence, and with the consent of that body, authorized him to organize a regiment of light cavalry, with full powers to appoint all the officers but the staff. And such was his popularity in his native state, (Virginia,) that he soon took the field with a splendid regiment to fight the battles of freedom against oppression and despotism.

His mother was Jane Bledsoe, sister of the justly-celebrated lawyer and orator, Jesse Bledsoe, called the Patrick Henry of Kentucky. For legal acumen, brilliant wit, logical argument, and rich imagery, he was scarcely Mr. Henry's inferior, and second to none other. Inheriting the wit and fancy peculiar to his uncle, Judge Baylor made the law his study, and in the office of his distinguished relative laid the foundation of that character which has placed him so high on the roll of statesmen and legislators in the South. Judge Baylor was in Col. Boswell's regiment of infantry during the war with Great Britain, and was in the engagement near Fort Meigs, in which the gallant Colonel Dudley's regiment was almost entirely destroyed, and he himself slain. His brother, Cyrus A. Baylor, shared with the gallant Croghan and Hunter in the defence of Sandusky, and received in consequence a splendid sword by a vote of Congress. At the expiration of his term of service, Judge Baylor volunteered with Shelby and Harrison in the invasion of Canada, during which campaign General Proctor was taken, and Tecumseh slain. When peace was restored to the country, he returned to Kentucky, and was admitted to the most able bar west of the Alleghany Mountains, and, with a host of legal stars as opponents, he secured a full share of practice. He was elected to the legislature of his native state in the year 1819, and in the following winter moved to the State of Alabama, where he soon made hosts of friends by his benevolence and integrity of character, and high legal acquirements. In 1824, he was elected to the legislature of his adopted state, and, in conjunc-

tion with Judge Pickens, he introduced the first bill to reform the judicial proceedings of the courts of the country. Although the bill was defeated, he has lived to see all the most enlightened states of the Union adopt the views advanced by him at that early day—a conclusive evidence of his sagacity and foresight. He was appointed director of the state bank by the legislature, and discharged the duties in a manner calculated to satisfy his fellow-citizens that he was an able financier as well as statesman. In conjunction with Judge Brown and Judge Clifton, he was appointed by the legislature one of a committee to examine a Digest of the laws of Alabama, prepared by John G. Aiken—an evidence of his high standing in that body. He was aid to Governor Pickens, in conjunction with the military and civil authorities of the state, when he went to receive the noble and great Lafayette at the boundary line of Georgia and Alabama. The great Frenchman, so dear to every American, on hearing his name, solicited a private interview, and asked, "if he was a son of either of those officers, of the same name, who had served in the Revolution." He said "he was." The general then inquired if his ancient brothers in arms were still alive, and when informed they were dead, he remarked, "I saw your father and uncle, forty years ago, at the head of their regiment, ready to fight the battles of their country." In the late Creek war, Judge Baylor commanded a regiment of Alabama volunteers, that rendered efficient service in terminating the war on the borders of that state. He had previously been elected to the Congress of the United States by the force of his eloquence and his personal popularity. He shortly after emigrated to the Republic of Texas, where his known integrity, legal acquirements, and moral worth, at once placed him high in the estimation of his fellow-citizens. He was immediately elected by the Congress of the republic one of the judges of the district and Supreme Court. He was a warm friend of annexation, and, upon a change of government, was elected a member of the convention that formed the present state constitution. Under the new state government, he was appointed again one of the district judges, which office he still holds, having been lately elected by the popular vote of his entire district without opposition. Judge Baylor has been eleven years upon the bench, presiding with an urbanity and polished dignity that has given tone to the entire bar in his district. Like Cæsar's wife, he is not only virtuous, but above suspicion. One peculiar trait this distinguished man has, in common with the great and good Sir Matthew Hale, is his patience and attention to the younger members of the bar. His example and fatherly advice to the gentlemen of the profession who practice in his district, has, no doubt, had the happiest effect upon them; and for moral worth, talents, and business habits, they are not surpassed by the bar of the older states. He never failed to do his duty, and his whole duty, during the darkest hours of the republic, but held court during the entire time of his judicial term. When the whole court of a brother judge were taken prisoners at San Antonio, Judge Baylor organized his court, although within two days' march of the enemy's cavalry. The Congress granted a charter for a Baptist college, to be located at Independence, Washington county, Texas; and his numerous friends, desiring to commemorate his name and fame, (unso-

licited,) called it the Baylor University, which is now dispensing its blessings to the students who throng its halls. As a powerful advocate of temperance, he has secured the respect and affection of all classes of men who constitute the polished corners of the temple of human society in every country. He organized one of the first temperance societies in the Lone Star state, and has lent all the powerful energies of his mind to arrest this growing evil—the social and moral upas-tree of the age. His fervid eloquence has always been heard in thunder-tones from the bench, in his charges to the grand jury, from the pulpit, in his sermons, and in the domestic circle, warning the young, admonishing the middle-aged, and supporting the old, in the paths of sobriety and virtue.

What Father Mathew, the great apostle of temperance and religion, has done for Ireland, Judge B. has endeavored to do for the land of his adoption. Upon the whole, as a man and judge, his character is indifferent in few points, and those are as but shadows in the picture of a mind beloved for its unselfish generosity, and admired for its high intellectual lights and child-like simplicity. And when he dies, we may well exclaim, in the words of the Book that was a lamp to his path and a light to his feet, "this day a good and great man has fallen in Israel."

HON. BRADLEY B. MEEKER,

OF MINNESOTA.

Hon. Bradley B. Meeker, the subject of this brief notice, is a native of Fairfield, State of Connecticut, where he was born on the 13th of March, 1813. On his paternal side he is descended from an ancient family, whose lineal ancestor, Robert Meeker, settled in the town of Fairfield as early as 1650. His mother was the daughter of Peter Nichols, who married Hannah Burr, the daughter of Increase Burr, a near relation of the Rev. Aaron Burr, one of the early Presidents of Princeton College, New-Jersey. His parents, who still survive and reside in his native town, enjoy the happiness that proceeds from a life spent in laudable and successful efforts to raise a large family to industry and intelligence. Entering upon life in humble circumstances, and embarrassed at the commencement by surety debts contracted for relations, most of their life has been a severe struggle between pecuniary dependence on the one hand, and the attainment of a competency on the other. Their sons, therefore, were all educated to labor, and from twelve years and upwards, were compelled to exchange the school-house for the farm, and books for the plough, with the exception of a short interval during the winter. Bradley, who was the second of seven children, was not excepted from this hard necessity of his brothers; and until he was sixteen years of age, had enjoyed no other educational advantages, than such as were to be gleaned from a common district school in the neighborhood, where only reading, writing and arithmetic were but imperfectly taught. At this period an incident hap-

pened, that constitutes an era in the history of his life. It sometimes happens that the merest accident, as a tale, a dream, or a romance, turns the course of one's days, and colors or controls his entire subsequent career. It was about this time that he obtained the use of Rollin's Ancient History and Pope's Iliad; both of which he read with avidity and profit. The latter was his companion at home and in the *field*, and, no doubt, principally contributed to kindle a love for literature, and to inspire him with an honorable emulation in the pursuit of knowledge. His taste for and attachment to books had now become manifest, and his father for the first time began to entertain the purpose of sending him to a grammar-school; but his large family and limited means, on the other hand, discouraged the idea. This obstacle, however, was overcome by the timely and friendly interposition of the venerable Deacon Joseph Hyde, of Greensfarms, who resided near the Academy, and who received him into his family, where he was boarded during the winter for his services between school hours. Here he commenced the study of the English and Latin grammars, which he prosecuted during the winter months, under the direction of Nathaniel Adams, Esq., but which he was compelled to abandon as the spring approached, and return again to the farm. During the spring and summer days, he toiled incessantly in the field; but the *nights* were all his own, and *these* were consumed in preserving *unaided*, what he had acquired the winter previous, and adding somewhat to the original stock of knowledge. It was during this summer, too, that he acquired a thorough knowledge of geography, having used for this purpose Morse's large edition, and atlas. In the meantime, his progress and devotion to books had attracted a wider circle of friends, among which number he had the honor of including Gov. Tomlinson of Connecticut, then one of the Trustees of the Weston Academy, taught by the Rev. Nathaniel Freeman, an eminent Greek and Latin scholar. Here, by the patronage of the former gentleman, he was placed at school, and commenced the study of the ancient classics, which he prosecuted the winter and summer following, and afterwards continued at Wilton, Ct., under the auspices of Hawley Olstead, Esq., a distinguished and accomplished teacher, until he was admitted, considerably advanced, to Yale College, in 1834.

On leaving this institution, his thoughts were turned westward, and by the advice of friends, was induced to settle in Richmond, Madison county, Kentucky. Here he commenced the study of the law, teaching at the same time, with signal success, the County Seminary, for upwards of a year. In the year 1838 he was admitted to the bar, and commenced the practice in Richmond. The bar at this place then stood deservedly high throughout Kentucky, a state distinguished for its forensic and legal abilities. Among the number might be named the Hon. John White, afterwards Speaker of Congress; Hon. Daniel Breck, soon after appointed a judge of the Court of Appeals of that state, and subsequently elected to Congress; Col. William Caperton, Maj. S. Turner, and William Goodloe, since a circuit judge. It is not to be presumed that a young man in the very vestibule of his profession, unaided by fortune and unbacked by friends, could enjoy anything like

a full tide of practice in the midst of such formidable competitors. Up to the fall of 1844, therefore, the time when he had resolved on changing his residence, his share of the business, though daily increasing, was inadequate to his expectations, and did not keep pace with his thorough learning and acknowledged qualifications. But if his harvest in fees at this place was comparatively small, he did not neglect the opportunity afforded by this circumstance, of turning his time to the greatest account.

There is no greater mistake than that ordinarily entertained, that an early or rapid start in a profession is any sure precursor of substantial and abiding success. This remark is eminently true in reference to the law. The most profound jurists and the most illustrious judges that ever adorned the English or American bench, have plodded their way slowly and laboriously to their distinction and usefulness; and were, doubtless, most fortunate in not having over much practice at a period in their professional lives when, if ever, they could ground and fortify themselves well in the knowledge of a science too profound in its principles and too infinite in its details to be compassed in any inconsiderable portion of one's existence. This period was spent by Judge Mecker in severe and unrelenting application to legal studies and researches, well assured, meantime, that his laborious and incessant toil would be crowned with ultimate and certain success. In 1845, he changed his residence from Richmond to Flemingsburg, Ky. Here his perseverance and energy of character were fully rewarded by his steady and increasing success. The regularity of his habits, (the effect of previous rigid discipline,) his care and attention to business, together with his familiar acquaintance with the principles and practice of his profession, seemed to promise him at no distant day its highest rewards.

There is little of incident in the life of a merely professional man, no matter what be his success in the line of his calling. In it, there is no lure or glitter to attract or excite the attention or admiration of the thoughtless and giddy multitude. Nothing short of that *lesser* attribute of greatness—the pulling down or up-heaving of society by its enemies—the bold and boisterous career of a reckless and unscrupulous demagogue, rather than the more difficult task of defining, upholding, and enforcing those principles of a community by which many dearest rights and interests are secured and protected, commends itself readily to popular applause or wonder. Judge M. never actively engaged in politics; but, on the contrary, is averse in his feelings and tastes to the partisan conflicts of the times. It is true, his pen was early engaged in calling the attention of his adopted state to the propriety and justice of constitutional reform. His articles upon this subject were quite numerous, and were republished and read with interest and profit throughout the state. The interest thus awakened resulted in a call of a convention, which revised and remodeled the organic laws of Kentucky, making the principal officers of the state, including the judiciary, directly elective by the people; a measure stoutly opposed by a strong minority, but which, in its practical operations, has vindicated itself, and fully justified the confidence thus reposed in the only source of all legitimate power in this country.

Early in the spring of 1849, President Taylor appointed him one of the judges of the Supreme Court of Minnesota, soon after that territory was organized by Congress. He immediately repaired to this new field of usefulness, and entered upon the responsible duties inseparable from such a station in a young and rapidly rising territory.

HON. NATHANIEL B. ELDRED,

OF PENNSYLVANIA.

The Hon. Nathaniel Baily Eldred, of Bethany, Wayne county, Pennsylvania, the present and recently re-elected president judge of the twenty-second judicial district of Pennsylvania, was born in Dolsontown, Orange county, New-York, on the twelfth day of January, 1795. He is the son of Elisha Eldred, of Orange county, and Mary his wife, whose maiden name was Hulze, and received the rudiments of an English education at the schools in the neighborhood of his father's residence. About the year 1811, he went to Milford, in Pike county, Pennsylvania, to prepare himself for commencing the study of law; and after going through the preparatory studies, entered the office of Dan Dimmick, Esq., then the leading lawyer of the place. After remaining for sometime with Mr. D., he placed himself under the instruction of Edward Mott, Esq., of the Milford bar, and on his motion, after passing the necessary examination according to the rules of court, he was admitted to practice in the year 1816.

Immediately after his admission, he removed to Bethany, Wayne county, where he commenced the practice of his profession, which he pursued with ability and success for nearly twenty years.

In 1822, he was elected a member of the House of Representatives of Pennsylvania, and was re-elected in 1823. He then declined, in order to give Pike county, which also belonged to the district, the representative for the succeeding two years, according to an understanding that existed between the people of the two counties, and William Overfield, Esq., of Pike county, then served for two years.

In 1826, Mr. Eldred was again elected, and re-elected in the year 1828—when he closed his legislative career, and declined a re-election. In the representative branch of the legislature, of which he was a member for four years, he distinguished himself for his business tact and industry, and was perhaps the most popular member of that body, and would have been the Speaker on more than one occasion, had he not declined the honor.

He was subsequently settled on the Pennsylvania general ticket for electors of President and Vice-President of the United States, elected by a large majority, and voted for James K. Polk for the Presidency.

He was also, in conjunction with the Hon. John Ross and the Hon. David Scott, appointed commissioner on the part of Pennsylvania, to treat with the state of New-Jersey, in relation to the use of the waters of the River Delaware, the boundary between the two states. He was next elected by the legislature one of the board of canal commissioners of Pennsylvania, but declined a re-appointment at the end of the first year, for which he had been chosen.

In the year 1835, he was appointed by Governor Wolf to be president judge of the eighteenth judicial district of Pennsylvania, which had then recently been created, and was composed of the counties of Warren, McKean, Jefferson and Potter. Having served with great acceptability in that district for about four years, on the decease of Judge Slupper, he was, in the year 1839, appointed by Governor Porter president of the sixth judicial district, composed of the counties of Erie, Crawford and Venango. He served as president of this district, one of the most important in the amount and variety of the legal questions arising in it in the state, for about four years; and in the beginning of the year 1843, on the appointment of Judge Blythe as collector of the port of Philadelphia, he was appointed president judge of the twelfth district, composed of Dauphin, Lebanon and Schuylkill, to which Carbon was added the same year. On his appointment to this situation he removed to Harrisburg, the seat of the state government, in Dauphin county, and presided over the district for about six years; Schuylkill and Carbon being in the meantime detached from it, and with Monroe erected into a separate district.

In 1849, a new judicial district was erected, called the twenty-second, composed of Wayne, Pike, Monroe and Carbon counties, the presidency of which was offered to Judge Eldred by Governor Johnston, and accepted; and he was accordingly transferred to the new district, and removed with his family to his old residence at Bethany, in Wayne county, where he has ever since resided.

In 1851, after the adoption of the amendment to the constitution making the judiciary elective, Judge Eldred's friends, in various sections of the state, were desirous of placing his name on the democratic ticket as one of the candidates for judge of the Supreme Court, which he peremptorily declined, preferring the office of president judge among his old friends, to which office he was unanimously re-elected, being supported by all parties, and having no competitor.

Judge Eldred's personal, political and judicial career has always been characterized by great consistency, independence, and integrity. He is a very straight-forward man. Nature furnished him with good, sound, practical common sense, and more than an ordinary share of talents. These he has improved, in a long course of professional and public life, in which he has enjoyed the unlimited confidence of every one who knew him. He has now served on the bench longer than any judge in Pennsylvania, except Judge Gibson of the Supreme Court, and is esteemed by all who have practised before him, as one of the ablest judges in the state.

In his charges he is always desirous to reach the justice of the case, and puts the law and facts in so close and perspicuous

a light to the jury, as to leave little room for mistake or misapprehension.

Few men have enjoyed so long a run of public confidence, and no man ever truckled less to obtain or retain it.

HON. JOSEPH WILLIAMS,

OF IOWA.

The subject of this notice was born 28th December, 1802, in Greensburgh, Pennsylvania, and traces his paternal line to Wales, and his maternal to Ireland. He received a good English education at Greensburgh Academy; studied the Greek and Latin languages under the instruction, successively, of the Rev. Joseph Coe, the Rev. John Canon, the Rev. Mr. McGill, and Mr. Will. Thrown upon his own pecuniary resources for his continued mental culture, he at the age of seventeen years entered the law office of John B. Alexander, Esq., of the Westmoreland bar, with whom he studied until 1823. When at the age of twenty-one, he was admitted to practice, and immediately took a prominent station at the bar in Westmoreland and the neighboring counties, in the courts over which the Hon. John Young presided. In 1827, he was married to Miss Mary Meason, daughter of Gen. Thomas Meason, and niece of the Hon. John Kennedy, late Judge of the Supreme Court of Pennsylvania. After a successful practice in several of the counties in Western Pennsylvania, and holding clerkships in the Senate, and in a convention to form a new constitution for that state, he, in June, 1838, received a commission from the government of the United States, as an associate justice of the Supreme Court of Iowa Territory.

On the organization of a state government, Judge Williams was commissioned by the executive of Iowa, Chief-Justice of the Supreme Court. The appreciation in which he was holden while on the bench, may be gathered from an extract from the records of that court, made after he left the bench, of the ceremony of his vacating a seat which he had so long adorned, and taking again his station at the bar:—

The State of Iowa—Supreme Court,
January 25, 1848.

On this day, after the business before the court was disposed of, the Hon. Chief-Justice Williams announced that his commission would on that day expire by limitation, and signified his intention to unite himself with the bar in the practice of his profession. When Mr. Whicher, (now District Attorney of the United States for the district of Iowa,) one of the senior members of the bar, at the request and in behalf of his brothers, addressed the judge as follows:—

"Mr. Chief Justice—

"You have announced to us that your labors upon the bench are about to terminate by the limitation of your commission. For nearly

ten years you have occupied a station on the Supreme Bench of Iowa. During all that time, (and some part of it has been marked by troublous excitement,) nothing has occurred to interrupt the harmony and the kindly feeling with which, in an eminent degree, your career commenced with us; and you have had the singular felicity of having enjoyed the confidence of the bar in your incorruptible integrity, and in your anxious desire that 'justice should be administered according to law.'

"On the other hand, the bar felicitate themselves on the reflection that you have at all times accorded to them all the confidence which their efforts, united with your own, have merited in endeavoring to establish the law in our new state, on a basis calculated to ensure protection to 'liberty, property, and the pursuit of happiness.'

"In behalf of the younger members of the bar, especially, am I authorized to tender to you their acknowledgments for taking them by the hand, inspiring their confidence, and cheering them forward in their course of usefulness.

"Accept, Mr. Chief-Justice, our testimonial of continued esteem and confidence; and whilst we regret that circumstances should have transpired to dissolve the relations which have so happily existed, and which we have so long enjoyed, we will welcome you to the bar with a sincerity of affection which we know you cannot doubt. And, sir, whether it be your lot to remain with us at the bar, or whether you shall be called to a higher sphere of usefulness in our country's service, we shall be proud to continue your name on our list of friends."

Judge Williams remained at the bar one year, during which time he was chosen by the people of the state an elector of President and Vice-President of the United States. Having cast his vote for Mr. Cass and Gen. Butler, he was, by a joint ballot of the legislative assembly, again called to the office of Chief-Justice of the Supreme Court of Iowa in 1848, for the term of six years.

HON. T. HARTLEY CRAWFORD,

OF THE DISTRICT OF COLUMBIA.

T. Hartley Crawford, sole judge of the Criminal Court of the District of Columbia, was born at Chambersburg, Pennsylvania, on the 14th day of November, 1786.

He is the only son of Edward Crawford, Esquire, who having served as an officer of the Revolutionary army, (which he entered at the age of 19,) from 1776 to the end of the war, was in 1784 appointed prothonotary and clerk of the several courts, register of wills and recorder of deeds, in Franklin county, Pennsylvania. These several offices he held until January, 1809. On the establishment of the Bank of Chambersburg, in 1810, he was elected its president, and was thereafter annually re-elected until his death, which occurred on the 6th March, 1833.

Judge Crawford entered Princeton College as a member of the junior class in the autumn of 1802, and graduated with distinction in

September, 1804. Having prosecuted the study of the law with assiduity for three years in the office of the Hon. James Riddle, of Chambersburg, he was admitted to the bar in his native county on the 7th day of November, 1807. He married in October, 1808, Miss Sarah Corbett Ross, daughter of Major David Ross, late of Maryland, aid in the war of the Revolution to General Hugh Mercer, who was mortally wounded on 3rd January, 1777, in the battle at Princeton—took up his residence in the beautiful village where he was born, and was engaged in the practice of his profession until December, 1829, when he took his seat in the House of Representatives of the United States, to which he had been elected the preceding year, and was re-elected in 1830. He was at this period of his life an active politician and an ardent and efficient supporter of the administration of General Jackson, whom he greatly admired and esteemed. He was elected a member of the legislature of Pennsylvania in 1833, and declined a re-election in 1834. In the excited, and occasionally almost stormy political struggles of those days he was an active participant, and not an unfrequent debater in the halls of legislation, national and state.

In July, 1836, the President of the United States was requested by a resolution of the House of Representatives, to institute an inquiry into alleged frauds in the purchase of the reservations of land to the Creek Indians under the treaty of 1832 with them. To prosecute this inquiry a commission was instituted by the President, and Judge Crawford and Alfred Balch, Esq., of Tennessee, were selected to conduct the investigation. They repaired to the late Indian territory in Alabama, the scene of the alleged frauds, where they spent the autumn and winter of 1836–37 in the execution of duties imposed on them. In the spring of 1837, they adjourned to Washington city to close their labors.

The office of commissioner of Indian affairs having become vacant, Judge Crawford was, without solicitation, appointed in October, 1838, by President Van Buren, to fill it, and the following spring removed his family to Washington, and established his residence and future home there. The Indian office, among the most important and responsible under the government, he held for seven years, during which, he has been heard to say, that his physical powers and mental capabilities were most severely taxed; and the industry, integrity and ability which he manifested in this position have been universally conceded.

The bench of the Criminal Court of the District of Columbia was vacated in October, 1845, and the late President Polk tendered the situation to Judge Crawford, which he reluctantly accepted and now holds. This court consists of a single judge. Its duties were always arduous, but they have much increased of late years—not so much in the mass of small crime, or in local transgression, but chiefly in the prosecution of the numerous frauds by which dishonest men have sought to impose on the officers of the government, in the adjustment of claims, real or pretended. The trials growing out of these unprincipled acts involve often sums of great amount, and legal questions, sometimes novel and of great nicety, unwearied energy, courtesy, entire fairness, experience and legal learning, with great promptness of decision, have enabled Judge Crawford to perform all that duty requires of him satisfactorily to the public.

HON. WILLIAM M. McCARTY,

OF INDIANA.

William M. McCarty, the subject of this notice, was born in the Territory of Indiana, on the 18th day of May, 1816. His father, Enoch McCarty, was one of the earliest pioneers to the West, and was widely known and universally respected for his integrity and public spirit. He was a delegate to the convention that formed the first constitution for the State of Indiana; was for a long period the clerk of the circuit court for the county of Franklin, and a member of the House of Representatives, and of the Senate of the State of Tennessee.

His son, the subject of this notice, was regarded in early life as one whose talents and energy promised much. There was a somewhat precocious development of manly traits in his character; and he is one of those active and independent spirits who triumph over difficulties, and show how little a man's success in life depends upon the smiles of fortune or the patronage of friends. His education was such as was afforded by the local schools of the West, and was limited to that of a good English education. His father, at the suggestion of the late Judge McKinney, proposed to graduate him at "Harvard University," but the son thought that life was too precious to be wasted in learning the medium of ideas not much used, and that his time could be more profitably used in accumulating knowledge through instruments with which he was familiar.

Mr. McCarty was permitted by his father to select his pursuit for life. The rank which members of the legal profession then held in the West, and the influence which they exerted over its society, determined his choice in favor of the bar; and after reading some works on mental philosophy, to learn the power of the mental instrument, and how it could be developed and disciplined, at the age of sixteen he began the study of the law, and at eighteen was admitted to the bar.

He was at this period a severe student—retired and taciturn—not mingling with society in its pleasure, or feeding his mind upon the idle and transient topics of gossip too often discussed in circles of the young and giddy—but in laborious study over the works of the sages of the law. He criticised, assimilated, and digested the matter of his reading, until he made it his own. He knew that it was only in the study of the law as a science that its symmetry could be discerned, and its adaptation to its ends fully appreciated; and that he who is a mere case lawyer, is driven at every turn to resort to his books, could neither illustrate its great principles, nor apply them with skill to the multiform cases that arise in practice.

At the age of eighteen, the subject of our memoir began the battle of life; but being diffident of his powers, he committed the very common blunder of aspirants for legal honors—of avoiding a collision with intellects more matured and better skilled in the strifes of the forum—from whom, by a series of defeats, the means of ultimate success may be

learned, and opened his office in a new county, where the bar was by no means distinguished, and not much of litigation.

His youthful appearance did not give clients much earnest of the wisdom acquired by the "*ugento annorum lucubratione*," and he realized that dark stage of professional life when the candidate waits in vain for fees and clients. But so far from considering his license a sufficient *imprimatur*, and that he had conquered the vast and complicated learning of his profession when he had been admitted to the bar, he knew that he had but crossed its portals, and his leisure time was directed to study, the better to fit him for the arena when brought upon it.

Failing of success in his new home, he determined to return to his native town, and discover if a prophet might not be honored in his own land; and here, at the age of twenty, made his first successful appearance at the bar, in suits against the state for damages occasioned in the prosecution of that scheme of improvements which resulted so disastrously to the finances of the state. In the prosecution of these suits he urged with earnestness and ability that the power of the state to seize private property for the public use grew out of the exigency of the case, and was limited by it; that the same immutable laws of justice that govern litigation between citizens should be the standard by which rights as against the state herself should be measured; that to recoup the benefits to accrue in future from such works would be to deny the party the fruits and benefits of legislation; that these benefits were not susceptible of pecuniary admeasurement, as the benefit, in its last analysis, consisted in the superior facilities of getting to markets, and that the party acquired no right to the use of canals or rail-roads until he paid the state the price she pleased to exact for the privilege of using them. He urged that if a party asserted that he had title to property, and it was seized by the state, it was wholly irrelevant and foreign to the issue to inquire if he had other property to be enhanced in value by improvements erected by the state; and that the party would not receive that "adequate compensation" or indemnity which the constitution provided he should receive if his property were taken for public uses, if the legislature could pay these palpable losses of property by ideal benefits, to be realized in the future, and altogether of a speculative character at the time of the adjudication.

From this time Mr. McCarty had a standing in his profession, and an extended practice. At the age of twenty-six he was urged by many of his numerous friends to permit his name to be used as a candidate for a seat in Congress, but refused. He was not well fitted for political life; being too proud to use the flatteries and arts resorted to so often by politicians for political preferment, and independent enough to utter his sentiments and opinions, without any of the prophetic vision of a Talleyrand which looked to changes, and was accommodated to them.

Mr. McCarty, in 1840, being flattered by his success, and desiring a wider field for the exercise of his profession, removed to the city of Cincinnati. Whilst there, he brought some suits to fix individual liability upon persons who had usurped the corporate name and privileges of a defunct bank, which had been dissolved by all of the modes known to the law. In these suits (under a statutory law of Ohio) he could sue any number of the bankers; and he made only those defendants,

who had swindled and defrauded a too credulous public, and declined to implicate others equally liable, who were themselves the dupes and victims of those he sought to compel to disgorge the wealth they had acquired by the fraudulent mismanagement of its affairs.

Mr. McCarty belongs to the democratic party, and was often called upon to address public meetings. He was one of the earliest advocates for the annexation of Texas.

Mr. McCarty, during his residence in Cincinnati, was tempted into some hazardous speculations, which resulted disastrously, and involved him in heavy pecuniary liabilities, under which he labored for some years; but his embarrassments failed to depress his energies, and his debts were subsequently paid. His creditors had so much confidence in his integrity, that no suits were ever brought to enforce payment. His health, during his residence in the city, was delicate, and some indication of pulmonary disease appearing, under the advice of his physician, he visited the Southern states; and a farther decline of his health induced him to return to his native town and his father's family, where his health was shortly after sufficiently restored to permit him to resume the labors of his profession.

The war with Mexico shortly after broke out, and the public mind was intensely excited for the safety of the army under Gen. Taylor; and upon a requisition being made upon his native state for troops, Mr. McCarty addressed meetings of his neighbors, to arouse their patriotism, and induce them to volunteer their services to the country. A company was promptly formed, and Mr. McCarty unanimously elected captain. His considerate and humane disposition was shown in his declining to receive the head of a family as a volunteer. He repaired to the place of rendezvous, and was elected, when the regiments were formed, Lieutenant-Colonel of the Third Regiment. His versatile talents fitted him for almost any sphere in life, and his chivalric spirit would lead him to make any sacrifice of his ease for glory or his country.

Col. McCarty was in the battle of Buena Vista, and exhibited that coolness amidst danger, so necessary to command. His regiment was distinguished in the battle by the utmost gallantry; repelling, with the steadiness of veterans, the charge of the enemy's lancers, and forming a part of that force which routed, and drove into the mountains, Ampudia's division, and put to flight the enemy's reserve, in the last struggle for victory, Some excitement was produced against him, for his command to some of his officers to cut down any of the soldiers of the regiment who should attempt to fly. Upon his return, after the expiration of his term of service, a public reception was given to Col. McCarty and his comrades, at his native town.

He had hitherto declined to suffer his name to be used in connection with office; but his name was proposed without his knowledge or authority, for the office of state senator, in a convention of his political friends, and thereupon the names of other candidates withdrawn; he was nominated and elected from his native county, by a vote much larger than his party vote.

At the organization of the senate, he was offered the chairmanship of the judiciary committee; but being the youngest member of that body, declined the honor. At its second session, he was offered, by

the president of the senate, his choice of the head of either of the committees.

Mr. McCarty, although a skilful debater, never spoke for "Buncombe." He found the legislature besieged for corporate privileges and charters, sought after with dangerous powers cloaked under specious pretexts of public good, but really to exempt the corporations from just liabilities to be contracted in enterprises embarked in for profits to the members; and he ably urged that this ideal person should not shield the real persons who compose and manage it from their acts and the consequences of them—that no immunity or privilege should be granted to an aggregation of individuals in business enterprises that is denied by law to a natural person, who risks his wealth or credit in like enterprises, and from a like motive.

Whilst Mr. McCarty was in the senate, both political parties were courting the free-soil party, supposed to hold the balance of power in the state; and Mr. McCarty was one of the few who adhered to the non-interference doctrine, and presented and advocated a preamble and joint resolution in relation to the territory acquired of Mexico, in which he affirmed that it was due to a subjugated people to allow them their laws and customs, as far as they were consistent with the security of our acquisitions and genius of our government; that it was a fundamental principle of republicanism, that legitimate authority only emanated from those who were subjected to its exercise; and that it was a violation of these cherished principles for an extraneous authority to determine the texture and complexion of laws, the good or evil effects of which it would not experience.

He was placed upon the Cass electoral ticket in 1848, and earnestly and ably illustrated the faith of his party to the numerous assemblages he addressed, in accordance with the usages established in the West. The proof of his ability, as a political leader, is found in the vote of the congressional district which he traversed.

He was now brought into a new relation to the public, having been elected by the legislature, president judge of the thirteenth circuit. There is no sphere in life, perhaps, where more ability is required than in the discharge of the duties of a circuit judge—obliged to rely upon the stores of legal knowledge previously acquired, with no leisure for deliberation or the examination of authorities, except at the expense of delay ruinous to suitors, and calculated to discourage a resort to legal tribunals for the dues of justice.

Mr. McCarty not only sustained his new relation with eminent ability, but added to the high reputation which he enjoyed as a jurist, by the facility with which his vigorous and well-disciplined mind seized upon the decisive points of a case, and fitted the principles, or analogies, of the law to it. As a jurist, Judge McCarty is noted for the clearness and perspicuity of his legal opinions, scarcely ever having occasion to change an opinion once given. So rapidly does his mind seize the merits of a case, that the members of the bar seldom address labored arguments to him, and he is as seldom obliged to take cases under advisement; and such is the confidence of the profession in his legal attainments, that but few appeals are taken from his decisions. And when it is considered that he is compelled to decide all the legal points arising in per-

haps two thousand cases in his circuit in the course of a year, without any previous knowledge of the cases, or of the points, which would arise, this promptness and accuracy of decision can only be regarded as surprising.

His marriage is a recent event in his life. Whilst in the senate he met Miss Auretia Dill, a lady of superior accomplishments; born, like himself, in Indiana, the grand-daughter of the late Gen. Dill, who was one of the earliest settlers in the West.

Judge McCarty is a man of extensive and varied reading; politics, history, science, and general literature have been cultivated, when not absorbed in the labors of his profession. He reads not as an amusement, but to enrich his mind with knowledge that is useful.

As a speaker, he is rapid and impassioned, with a warmth of earnest conviction felt by himself, and desired to be instilled into his auditors. He employs no ornaments of speech, but few anecdotes, indulges in no play of fancy, and never aims to direct his hearers from his subject to himself or his style. His speech is direct, earnest, and for a result —addressed more to the understanding than the passions. He sometimes overrated the intelligence of his audience in the use of terms, or matter not suited to mixed assemblages, and this, with his failure to address the passions, would seem to indicate that his speeches would not be of a popular character. But yet, with these drawbacks, his earnestness and self-conviction, his steady array and disciplined precision of thought, with his frequent recurrence to great and familiar principles, and their application, all combined, effect all that the most eloquent accomplish.

Judge McCarty is yet a young man; is often spoken of in connection with important offices; and with his energy, it is difficult to predict at what point of eminence his career will terminate—though it requires no sagacity, from the earnest already given, to foretell that his future will be brilliant and successful.

MEMOIR OF WILLIAM JESSUP, LL.D.,

OF PENNSYLVANIA.

The subject of this brief memoir was born at Southampton, Long Island, in the year 1774, of highly respectable parentage. He was sent to Yale College, New-Haven, to complete his education, and there laid the foundation of his subsequent success in life, in competition with many of those gifted minds which have since flashed so brilliantly along the pathway of fame, or amid the highest triumphs of genius in our land. Among his classmates were Thomas A. Marshall, of Kentucky; Dr. William B. Sprague, of New-York; Isaac E. Holmes, of South Carolina; James G. Percival and Truman Smith, of Connecticut; Orrin W. Fowler, of New-York, and John M. Clayton, of Delaware.

Having completed his collegiate course, Mr. Jessup emigrated to Northern Pennsylvania, and settled at Montrose, in Susquehanna

county, where, with his family, he still resides. In 1818 he became a student at law in the office of the Hon. Almon H. Read, who subsequently represented the twelfth congressional district of Pennsylvania for several years in Congress. In 1820, the subject of our sketch was admitted to the bar, and entered upon the stormy theatre of professional life. Like many others of a similar temperament, his earlier progress in his profession was slow, difficult, and discouraging. It required several occasions of excitement and of deep interest to call out his ample, but at that period, latent powers as an advocate; and the doubts and struggles which attended the first year or two of his novitiate, when contrasted with the brilliant success of his after-life, furnishes another of those cases which may well be pointed out by way of encouragement to the despairing youthful aspirant to professional eminence.

About the period of his admission to the bar, he received the appointment of clerk to the commissioners of Susquehanna county, which place he continued to hold for several years. In 1827, Governor Shulze, of Pennsylvania, commissioned him register of wills, and recorder for the same county—a re-appointment to which, at the hands of Gov. Wolf, he declined in 1833. These minor positions are mentioned here, as showing that his progress was substantial, and by that sure gradation which accounts for the eminent practical ability that distinguished him subsequently in the higher courts of the state.

Upon the resignation of the Hon. David Scott, president judge of the eleventh judicial district of Pennsylvania, Mr. Jessup was promptly tendered the vacant bench by Gov. Ritner. This district then comprised the counties of Luzerne, Pike and Monroe. Upon the accession of the Hon. John N. Conyngham to the presidency of the adjoining district, a transfer was made by the legislature of the counties of Luzerne and Susquehanna, that accommodated both judges in respect to residence: Judge Conyngham residing in Luzerne, and Judge Jessup in Susquehanna.

Upon the expiration, in 1848, of his first constitutional term upon the bench, Judge Jessup was re-appointed by Gov. Johnston to the district then composed of Luzerne, Susquehanna and Wyoming. Here he continued to preside until the term again expired in 1851; prior to which, he had been nominated by a state convention of the whig party, as one of the five judges of the Supreme Court of that commonwealth. At the following election, the whig party of Pennsylvania—almost uniformly in the minority—were, as usual, defeated, and its candidates fell by some few thousand votes—Judge Jessup sharing the fate of his distinguished compeers, Meredith, Chambers and Cowly. He then returned once more to his favorite profession; and being yet in the prime and vigor of life, it is safe to predict that the measure of his fame is not yet full.

The style of his oratory at the bar is perspicuous, pleasing, and strongly impressive. One of his most brilliant forensic triumphs may be reckoned his defence of the Rev. Albert Barnes of Philadelphia, upon the charge of heresy, before the general assembly of the Presbyterian church. In his character or position as a judge he was remarkable for a clearness and readiness upon any subject within the range of the profession, and for a prompt and proper dispatch of business. The bar,

in both districts where he has presided, is admitted to be equal in point of character and intelligence to any other in the interior of the state; and with scarcely an exception, Judge Jessup commanded not only their respect for his learning and impartiality, as exhibited on the bench, but also their affection and esteem, in the highest degree, as a man and a Christian. His useful qualities as a citizen also claim a passing tribute. He has always been prominent and munificent in the cause of education, and has ever aided most freely in every effort to promote any cause of human advancement or of public utility.

His *Alma Mater* paid him the just tribute, in 1848, of conferring upon him, unsolicited, the degree of Doctor of Laws. Although, apparently, always immersed in the cares of professional life, his great industry and unwearied assiduity have enabled Judge Jessup to cultivate his earlier literary and scientific tastes to an extent unusual with those distinguished, as he is, by great legal ability.

Altogether, his character and course of life have been such as to confer that substantial fame, which must always exert a wholesome influence upon the rising generation of American lawyers within every circle in which it is exhibited.

HON. ALFRED WHEELER,

OF CALIFORNIA.

The subject of this sketch, now United States Attorney for the Southern District of California, was born in the city of New-York, on the 30th day of April, 1822. At the age of sixteen he entered the New-York University, preparatory to the pursuit of the study of law, to which his early inclination had been directed. His collegiate course was marked by no remarkable devotion to the *beaten* track of book discipline, but in the fields of poetry, rhetoric and oratory he found subjects most congenial to his taste and disposition. Possessed of quick perception, vivid imagination and retentive memory, he acquired readily and cultivated a knowledge of those traits of mind and character which make the successful lawyer.

Before completing his Sophomore year, he was thrown upon his own efforts for his support, by a change in the pecuniary circumstances of his father; but true to his purpose and ambition, and without abandoning his collegiate course, he turned his ingenuity to good account, and with the pencil, during two or three hours of each day, earned sufficient in the office of an architect to pay his necessary expenses until he graduated. Immediately thereafter he commenced the study of law in the office of an eminent practitioner in New-York city, and was admitted to the Supreme Court of the State at the May term of of 1845. He practised with success in this city until May, 1849, distinguishing himself during the Presidential campaigns of '44 and '48, as a political orator and zealous partisan of the whig school, and acquiring considerable literary fame by various contributions to the journals of the day, when, after having established a high reputation for talent and integrity, and leaving behind him a large circle of friends and

admirers, he emigrated to the new El Dorado on the shores of the Pacific.

He arrived at San Francisco in the fall of '49, at a period of prosperity and promise unequaled in the history of American cities, and finding the path to fame and wealth open before him, established himself at once in the profession, and became one of the most popular and successful members of the San Francisco bar.

Finding the political party to which he belonged inefficient and not yet organized, he entered the field, and became one of the earliest advocates of the doctrines of the whig faith, and was among the first to prepare the way for the organization of the party through the new state.

He was before long chosen by his party to represent them in the House of Assembly, where both on the floor as well as in the judiciary committee, he became one of the most useful and able members of the body. At the close of the session he returned to his profession, and has since enjoyed the reward of his industry and perseverance in the acquisition of the most substantial of fortune's favors.

On the 22d of August, 1851, he was appointed by the President United States Attorney for the Southern District of California, an appointment which was stated by the newspapers in that state to have given general satisfaction to both political parties. By reason of the death of Hon. James M. Jones, U. S. Judge for the same district, just as the court was about to be organized, he has not been able as yet to enter upon his official career, but will, doubtless, prove that the appointment could not have been bestowed on a more honorable and efficient member of the bar.

Few men of his years have exhibited greater versatility of talent, and at the same time enjoyed greater success in the field of professional labors. As a literary man and poet he might have attained a high position, had he continued to tread that path to fame; but choosing the severer and rougher road of public and professional life, he has won more enviable honors, and with the credit, too, of being the architect of his own reputation and fortune.

In California he has peculiarly distinguished himself in that branch of law considered the most abstruse and perplexing, to wit: that of real property, and which in that state is embarrassed with unusual difficulties. His able reports, published there at the instance of the city council, on the subject of Mexican and Pueblo grants, have been of great public utility, and are consulted as standard authorities and very accurate compilations on those subjects.

Placed now in a sphere which affords unequaled opportunities for the exercise of his abilities, his friends and acquaintances will be greatly disappointed if he does not attain still higher honors and a more enviable position.

HON. GEORGE H. WILLIAMS,

OF IOWA.

The pursuit of professional eminence, under the most favorable circumstances, is full of trials and difficulties to the lawyer; but when every step of the way is hedged up with the embarrassments of adverse fortune, no undertaking is more hazardous—none more frequently ends in disappointment and failure. No small share of moral courage is necessary at the present time to enter upon the study of the law, to undertake to explore its ponderous tomes, and penetrate its numberless labyrinths; and certainly no ordinary degree of resolution and energy will enable one "to labor and to wait" for a successful and distinguished practice, and then to make such practice the reliance, the hope, the pride and glory of life. The achievements of physical courage excite the praise and admiration of man; but how poor in value and excellence are these, the deeds of excitement and violence, compared with those triumphs of moral heroism which elevate the child of obscurity, poverty, and friendlessness, to high intellectual power and distinction! Considering the crowded state of the legal profession in this country—the competition for business which necessity as well as ambition inspires—the talents, learning, wealth and influence which the beginner must necessarily encounter—considering all these, it is evident, that whoever strides almost with a single step from the very threshold to the highest post of honor in his profession, must have somewhat of industry, learning, and genius, not possessed by those thus left behind. Political distinction may, to a great extent, be the result of fortunate events, or favorable party combinations. The physician may acquire considerable business and reputation without much mind or knowledge, because his patients are unable to distinguish between the effects of his practice and the secret workings of nature. The preacher may pass along "the even tenor of his way," and be praised for wisdom and virtue which he has not, because it is unfashionable, if not irreverent, to expose his weaknesses and faults. Not so the lawyer. Slander and detraction is common parlance concerning him. Prejudice is ever busy to find some excuse for its vile existence. Controversy betrays his incapacity, and exaggerates his mistakes, and, by means of this ordeal through which he is made to pass, every possible disguise is stripped off. By the severe and unfriendly judgment passed upon his pretensions, he sinks to the level of ignoble life, or rises by the resistless force of real merit to high positions of influence and power. Lawyers are rarely deceived as to the abilities of each other. Empty show and vain parade may attract attention for a little while; but no practitioner stands high in the estimation of the bar to which he belongs without some solid and superior parts to prefer and sustain him. Good fortune may give an office to a lawyer, but good fortune can never make a lawyer for an office. Extraordinary success is oftentimes attributed to adventitious circum-

stances or aid; but such is not always the case, as the following brief sketch may tend to show:

George H. Williams was born, March 26th, 1823, in the town of New-Lebanon, county of Columbia, and State of New-York. Born in a county which has, probably, produced more distinguished citizens than any other in the United States, he has proved himself worthy of the place of his birth.

His parents were natives of New-England—descendants of the hardy and humble pioneers of Connecticut and Vermont, and consequently boasted no family name or distinction—brought no hereditary honors to the subject of this notice, unless derived from the fact, that both his grandsires fought and bled upon the battle-fields of the Revolution.

In 1826, the family emigrated to the western part of the State of New-York, then comparatively a wilderness, and, after enduring nearly all the losses and privations incident to sickness and misfortune in a new country, finally removed to Onondaga county, where the parents now reside. The early boyhood of young Williams was passed with few opportunities for mental improvement, as well on account of the want of schools, as the necessity for laboring with his parents to establish a home in the wild country where he then lived. From the time, however, that he learned the use of books, they became his constant companions, and generally enticed him from juvenile amusements to their more agreeable and profitable enjoyment. After removing to Onondaga county, he attended the district school during the winter, and in the summer-time followed a farmer's occupation. The same primary course of education to which he was subjected has helped much to make many of the strongest and best men of the country. The district school first unfolding the faculties of the mind, and the cultivation of the soil at the same time invigorating the powers and energies of the body, all grow with a healthful, firm, and equal growth; while in the pure air of the country are formed those habits of life and principles of action which characterize "the noblest work of God."

Such was the proficiency of young Williams at the school where he attended, that at the age of fifteen he was found qualified to teach, and for two successive winters discharged, with satisfaction to his employers, the troublesome and delicate duties of an instructor.

He now determined to acquire such an education as his limited resources would allow, and, out of the avails of his own industry, made the necessary provisions for attending the academy in a neighboring village. Here he outstripped all competition; and the rapidity of his progress occasioned the principal of the institution to remark, that, "in twenty years' teaching, he had never seen a scholar advance in his studies with equal facility and speed." At the age of eighteen, he commenced the study of the law with Hon. Daniel Gott, late member of Congress from New-York, in whose office he continued most of the time until he attained his majority.

During these three years, by the exercise of great industry and rigid economy, he was enabled to support himself, and at the same time prosecute his legal acquisitions with unusual ardor and success. With his clerkship he commenced a practice in magistrates' courts, which soon extended to the adjoining towns; and before these tribunals, where

he often encountered the most experienced members of the bar, he displayed a skill and eloquence which elicited not only the admiration of observers, but a general and confident prediction of his future eminence at the bar. Having arrived at that period in life when it becomes desirable for the lawyer to select a permanent location for practice, like many other ardent and aspiring young men, he turned his eye towards the Far West—to that free, broad field, where gallant and generous spirits may strive in equal contest for superiority, with few or no artificial arrangements to oppress one or elevate another. Genius and energy will accomplish much for a man; but there are some things which even these can hardly do without the use of money. The difficulty of providing the proper outfit for such a long and expensive journey was only surmounted by the kindness of disinterested friends, who, confident in the success of the adventurer, furnished him with the necessary means, and took for security his naked promise that he would repay them when future good fortune should make him able so to do.

Starting out with little knowledge of men and the world for no particular destination, he determined to go wherever, in the great West, Providence might direct his steps. When at Cleveland, he decided to emigrate to Iowa, and on his way was detained a day or two in the city of Cincinnati. Here he was robbed of all his money, and left in a penniless condition to finish his journey. Not discouraged by misfortune or deterred by the prospect of future dangers and difficulties, he boldly pushed on, and in the month of October, 1844, found himself, without a friend to receive him or a farthing in his pocket, upon the soil of Iowa. Those only who have been placed in a similar predicament can appreciate the painful circumstances of a like position. After being thrown awhile upon the charity of strangers by sickness, and experiencing various trials of his perseverance and fortitude, he finally effected an arrangement, and commenced the practice of the law in connection with the Hon. Daniel F. Miller, of Lee county, since member of Congress from Iowa. A short time in practice sufficed to show the calibre of the man, and to place him in the first rank of the profession. In 1846 he was nominated by his party for the legislature, but owing to the influence of local causes in the election, was defeated. In 1847 Iowa became a state. The election of district judges was held under the constitution in April of that year, and the subject of this notice, contrary to his own expressed wishes, having received the nomination of his party, was elected over a strong political opposition, judge of the first judicial district of Iowa. Few men at the age of twenty-four have been placed in a more difficult or responsible position.

The government of the state had just been organized, and its judicial polity was wholly unsettled. The first district not only embraced a large portion of the people and business of Iowa, but there were circumstances connected with most of its litigation which rendered the situation of judge peculiarly trying and difficult. The southern portion of Lee county, lying between the Mississippi and Des Moines rivers, containing about one hundred and nineteen thousand acres of the most valuable land in the state, including the flourishing city of Keokuk, is known by the name of the "Half Breed Tract." The whole of this

tract was the subject of fierce disputation between the occupants of the soil and those who claimed to own the title. The feelings naturally engendered by this contention were mixed up in some measure with the election, and while the unsolicited suffrages of those who lived upon the land assisted to place Judge Williams in office, they served at the same time to place him between the hopes of one party and the fears of the other. To hear and determine the claims of deeply interested and embittered litigants, to decide between cherished and conflicting titles, to dispense law in the midst of public excitement; these were some of the duties which he found among the blushing honors of his office. He was found, however, to be entirely adequate to the exigency. Contrary to the decisions of the Territorial District and Supreme Courts as well as of a cotemporary state judge, he decided that the title set up to the above named tract of land known as the "Judgment Title" was a nullity. This decision has since been affirmed by the Supreme Court of the state, and in effect by the Supreme Court of the United States. During all the time that Judge Williams has been upon the bench, suits have been pending before him both at law and in chancery testing the validity of the title to said land called the "Decree Title." These suits have been extremely numerous as well as important; as an evidence of which it may be stated, that the docket of a single term in Lee county has numbered from three to four hundred cases, most of which concerned the rights of persons to real estate. Some of the ablest lawyers in the West were engaged in these cases, and every possible question pertinent thereto, which learning could raise, or ingenuity invent, was presented for adjudication. The determined and repeated efforts to overthrow the latter title were overruled, and all the decisions of Judge Williams, sustaining and settling the rights of parties under it, have been affirmed by the Supreme Court of the state, with perhaps a solitary exception. All his opinions have discovered much legal sagacity, but those upon the law of real property have been marked with singular correctness; for out of nearly three hundred of his judgments upon that subject—brought before the Supreme Court for revision—not more than four or five have been reversed for error in the court below.

The constitutional powers of legislatures and courts; the nature and effect of judicial proceedings and judicial sales of almost every kind; the multifarious questions which must necessarily arise out of much careless and ignorant conveyancing, with many others of importance, were involved in these cases. In consequence of the decisions concerning the "Half Breed Tract," the "settlers" thereon have at times manifested much bitter feeling and indignation towards Judge Williams, but at all times he has held the scales of justice with a firm and steady hand, and by his fearless and independent course secured the confidence and respect of an impartial public. Where popular excitement becomes frenzied by interest or feeling, it takes the man of true moral courage to meet it;—"to meet it as the rock meets the wave and dashes its fury to air." By such a wise and judicious course of adjudication, a ruinous and protracted litigation has been brought to a close, and peace and harmony restored in a great measure to a long-distracted and lawyer-ridden community. Five years' service on the bench having

satisfactorily tried the abilities and principles of the subject of this slight memoir, he was strongly urged by men of all parties to consent to a re-election, his term of office expiring in April, 1852; but he positively refused, prefering the practice of the law to any judicial honors.

In the discharge of his varied official duties Judge Williams has been distinguished for quickness, clearness and vigor of thought, a sound practical judgment and knowledge of the law, while he stands high in public estimation as an eloquent and impressive speaker. In 1850, he was married to the daughter of Gen. V. P. Van Antwerp, of Keokuk, and in all the relations of private life is above and beyond reproach. His reputation as a man and a citizen is without spot or blemish. In size and make, he is large and muscular, with an unhandsome, but strongly marked and expressive countenance.

Judging from past success he may look forward to a long career of usefulness and distinction.

HON. JAMES X. McLANAHAN,

OF PENNSYLVANIA.

"Justum et tenacem propositi virum,
Non civium ardor prava jubentium,
Non vultus instantis tyranni,
Mente quatit solida.—*Hor.*

The citizen, in visiting the capital of our country, is immediately struck with the sad reflection that the distinguished men in whose hands have dwelt empire—whose wisdom, prudence and patriotism have so powerfully tended to the greatness and prosperity of the republic, are one by one, at short intervals, sinking into the sleep of the tomb.

The father of the Senate, whose learning and labor were conspicuous on every important topic, has left that hall in every probability not to return. Calhoun already slumbers beneath the sod of that state whose honor through life he watched with more than jealous care. The eye that turns on Webster, will behold that noble form and front like Jove, drooping with the weight of years, but bearing within an intellect which still towers "precious, massive, and splendid." The peerless Clay, whose name is identified with the welfare of three generations of the republic, and whose name will live as long as liberty and letters last, stands tottering on the brink of the grave, whilst the nation holds its breath in fear that each day may be his last. Stretching life to its utmost span, it is not possible that the remaining members of this venerated band can much longer animate our councils or advise our people.

We are, therefore, very naturally led to examine who, among the younger class of statesmen, can the patriot look to for the possession of those qualities, both of mind and heart, equal to the high and holy task of directing the affairs of this massive republic.

There is perhaps no man at present in the national Congress, of as

few years, and of as little legislative experience, whose past and present gives promise of a higher future, than the eminent lawyer and distinguished gentleman, who is the subject of our present sketch.

James Xavier McLanahan, member of Congress from the sixteenth district of Pennsylvania, and chairman of the committee of the judiciary, was born in the year 1809, in Antrim township, Franklin county, State of Pennsylvania.

His father was William McLanahan, a highly respectable farmer, in good circumstances.

His maternal grandfather was Andrew Gregg, Secretary of the State of Pennsylvania during the administration of Gov. Heister, and afterwards the opposing candidate in the contest which resulted in the election of Gov. Shulze.

At a proper age, the young McLanahan entered the Hagerstown school, and afterwards Dickinson College, where he graduated with much celebrity in 1826.

Resolving, from his early youth, to make the law his profession, immediately after graduating he commenced his legal education in the office of Mr. Carothers, an eminent member of the Pennsylvania bar, residing at Carlisle. Removing shortly afterwards to Chambersburg, Mr. McLanahan completed his studies in the office of the Hon. George Chambers, late judge of the Supreme Court of Pennsylvania.

Mr. McLanahan's well known intellectual powers, and his warm and generous nature, at once drew around him troops of friends, and he was soon offered a position in the political party to which he avowed his attachment. This, however, he declined, determining to devote his exclusive attention to the practice of his profession.

It may be well to pause here in our brief narrative to admire the wise and prudent course pursued by the young lawyer in this particular.

Too many of our young professional men have ruined their prospects in life by entering too early into the battle and the strife of politics.

Flattered by the attentions of men of high position, their company courted by the throng, the duties of their profession becomes irksome to them. They rebel against its stern demands. Mistaking the deceit of the politician for the truth of friendship, they offer themselves perhaps as candidates for the legislature, and are elected. Their minds not yet matured, lacking discretion, they serve their term with no credit to themselves nor benefit to their constituents, and are trampled upon by the next new comer. Then awakening from their stupor, they behold others, their inferiors in intellect, far on the road to wealth and distinction; and thus drooping with disappointment, they die in dissipation, or live pensioners on their respective parties.

Mr. McLanahan, by strict attention to his business, was soon in the enjoyment of a lucrative practice. Scarcely a case of any importance has occurred in his county since he came to the bar, in which he has not been engaged.

In 1841, in Pennsylvania, the waves of political excitement ran mountain high. Both parties strained every nerve to secure the state.

At the preceding session of the legislature, the senatorial district in which McLanahan lived, had been formed with the avowed intention of preventing the election of any one of the political party to which McLanahan was attached.

In opposition to his personal feelings, he was nominated for the state senate, and in despite of every effort to the contrary, was elected by a large majority, running far ahead of his ticket.

From the time he entered the senate he became a prominent member, and the leader of his party in that body. His profound research, depth of thought, and eloquence of diction, soon placed him amid the foremost men of Pennsylvania. He served his senatorial term of three years, and declined a re-election.

He continued at the bar until 1848, when he was elected to Congress.

Shortly after taking his seat as a representative, he was unexpectedly and involuntarily drawn into a discussion, and delivered himself of a speech that riveted the attention of the House, and won the applause of the country. His closing appeal in behalf of the Union was most eloquent, and has already deservedly found a place in several of our American class-books.

Mr. McLanahan was re-elected to the present Congress in the fall of 1850, notwithstanding a most bitter opposition.

At the commencement of the session his name was favorably mentioned as a candidate for the Speakership. This he very becomingly declined. He was, however, placed at the head of the judiciary committee. The duties of this responsible position he has thus far filled with marked ability. He has projected several important reforms in that department of the government, which have met with the concurrence of the House and the nation.

We had forgotten to mention, that in 1843 Mr. McLanahan was united to a daughter of Mr. James McBride, a wealthy merchant and estimable gentleman of this city.

Mr. McLanahan's fine personal figure, joined to a voice of great compass and power, and a countenance strongly marked with feeling as well as thought, gives him advantages as an orator which not many public men in this country possess.

To say that he has cultivated the rare intellectual gifts which nature has endowed him with up to the fullest extent of their capacity, would be to make an assertion which nothing but the blindest friendship could excuse.

A scholar he is, and a ripe one, too, but he is not a learned man in the common acceptation of the phrase. He has dropped the speculative sciences long since, and given his mind only to those practical pursuits which in a country like ours are so much more useful. His quick perceptions make him a man of true sagacity; his ardent temperament, (we might say his strong passions,) has given uncommon energy to his character, and his clear reason has purified his tastes, and made his judgment, though certainly not infallible, yet in the main altogether reliable.

But the strong hold he has on the affections of his constituents and his friends, is better accounted for by his attractive, social and moral

qualities. The unselfish and generous impulses of his nature do not permit him to serve any one by halves, and yet his opponents have never had cause to complain that his demeanor towards them was wanting either in justice or in courtesy. Sincerity, that first of virtues, is the characteristic trait of his mind. His whole conduct is full of transparent truthfulness. His speeches are marked with a sort of daring plainness. Concealment of his opinions, whatever may be the effect of their utterance upon himself or others, seems with him to be out of the question.

> His heart's his mouth.
> What his breast forges, that his tongue must vent.
> He would not flatter Neptune for his trident,
> Or Jove for his power to thunder.

It may be that Mr. McLanahan will retire after the present Congress to private life. At all events, it is impossible now to predict whether higher honors await him or not. But no matter what may be his future career, he has already earned the title of an able lawyer, an incorruptible public servant, and an honest man. Of such a character it is fit that the dignity should be vindicated and the value made known.

GENERAL SAM HOUSTON,

OF TEXAS.

Sam Houston was born on the 2d day of March, in the year 1793, some eight miles northeast of Lexington, in Rockbridge county, Va.

His ancestors, on both sides, were of that North Scottish race that fled from oppression to North Ireland, whence, after the siege of Derry, they emigrated to the State of Pennsylvania. They and their descendants adhered to each other in their wanderings, till they reached the State of Virginia, where the father and mother of Houston were united in marriage. His father did his duty to the colonies in the Revolution. A man of iron frame, commanding bearing, and fearless courage, he died in 1807, bequeathing these qualities to his son, the only legacy he had to bestow. His mother had a majestic mien and a countenance of great dignity, possessed a highly cultivated intellect, and was the friend of the poor. Her son was at her bed-side when she died, and wept tears of sorrow at the loss of one to whose training he owed the broad foundation of his manly character.

Like all sons of laboring parents, young Houston was compelled to devote far more of his time to farm-work than to school, yet he always kept up with his companions in the slow race of elementary learning. When he was thirteen years old his father died, and this event wholly changed the fortunes of the family. His mother found herself burdened with the support of six sons and three daughters, with an uninviting future before her; but with her usual determination of spirit, she disposed of the farm and other property which her husband had left, and removed to the West. After encountering severe hardships in her

long journey, she safely reached the bounds of civilization in the southwest, which were marked, in those days, by the Tennessee river. In advance of that stream were the Cherokee Indians, near whose territory Houston's mother settled, and her boys at once set themselves to work to open a farm.

Young Houston devoted all the time he could spare to the studies of a rude frontier school, during which he committed the whole of Pope's version of the Iliad to memory. By the advice of his elder brothers, he was induced to enter a country trader's store; but standing behind a counter was not a life to please a mind of his cast, and he suddenly disappeared. After a lapse of several weeks, news came to the family that he had fled to the Indians beyond the Tennessee River, among whom he was living greatly to his own satisfaction and comfort. His reason for taking this step, was, that the wild liberty of the red man suited his nature far better than the restraints of the white settlements. He was now nearly six feet in height, and as straight as the straightest of the men of the forest. His mother and brothers believing that the romance of this mode of life would soon wear off, gave themselves no uneasiness about him, but he returned not to his home for several months, and when he did return, it was only to renew his wardrobe and betake himself again to his new abode. Nearly five years experience in this mode of living initiated him into all the secrets of Indian life, and gave him a knowledge of savage character, that made him a complete master over the Indian mind, as his intercourse with the red man, in after years, fully proved.

Finding himself in debt, at the age of eighteen, for his own wearing apparel, and for purchases of gifts for his savage friends, he opened a school for the children of the whites on the frontier, at eight dollars a year, and soon got together enough money to discharge his obligations. He then renewed his own studies, under his old tutor, and undertook to dive into the secrets of geometry, but Euclid had little charms for a mind like his, and he threw it by to seek some more congenial pursuit.

It was now the year 1813, and while debating as to his future course of life, a recruiting party of the United States army appeared in Maryville, the chief village of the settlement. He was just at that age when war and its deceptive colorings are sure to captivate the youthful ambition, and he enlisted without a moment's reflection. His mother gave him his musket and bade him never disgrace it, telling him that the door of her cabin was always open to the brave, but never to the coward. Shortly after he entered the service he was made a sergeant, because of his skill as a drill-master, whence he was promoted to be an ensign. He was prominent in organizing and drilling the eastern battalion of the thirty-ninth regiment of infantry, which was soon to participate with him in the famous battle of the Horse Shoe.

General Jackson's army, now amounting to some 2,000 men, was encamped at Fort Strother, and his spies occupied the forests far and near. The Creek Indians, against whom he was operating, had assembled a thousand of their warriors on a bend in the Tallapoosa River, called, from its shape, the "Horse Shoe," where they had resolved to risk all upon a single battle. It is a peninsula of some hundred acres

of land, opening towards the north, and a breast-work of three tiers of heavy pine trees, with two rows of well-arranged port-holes, extended across the isthmus, from river bank to river bank. On the 27th of March, Gen. Jackson reached the Horse Shoe, and in a few hours completely invested the peninsula. Gen. Coffee had, by his directions, previously crossed the river, at a ford two miles below the bend, with a body of mounted rangers, and nearly all the friendly Indians, and at ten o'clock in the morning had so dispersed his lines as to cut off all escape over the river from the southeast and west sides of the bend. In the interval, Gen. Jackson advanced towards the north end of the peninsula with the main army, and began to play upon the enemy's breast-works with two small pieces of artillery. A brisk cannonade was kept up from half-past ten in the morning to one o'clock in the afternoon, with but little effect, owing to the light calibre of the artillery, and the heavily-timbered barriers of the enemy; but just at this juncture a sharp firing of musketry and rifles was heard in the southern part of the peninsula, whence a dense column of smoke came rolling up.

In the course of the morning the friendly Cherokees had discovered a line of canoes concealed under the bushes on the peninsula bank of the river, and a band of them instantly swam the stream and brought the prizes across. The Chief of the Cherokees, followed by his braves, and Captain Russell, with his spies, immediately crossed the river in canoes, set fire to a cluster of wigwams, and, under cover of the smoke, rushed upon the rear of the enemy, assembled near their north works. Gen. Jackson's troops, perceiving what had taken place in the southern part of the peninsula, were impatient to storm the breast-works, but he resisted their wishes, until he had sent an interpreter to the enemy, to ask the removal of their women and children to a place of safety beyond the river. This being done, the order to storm was received with enthusiasm, and the thirty-ninth regiment, in which our Houston served, under the command of Col. Williams, and the East Tennessee brigade under General Dougherty, were, in a few moments, engaged hand to hand with their adversaries. Major Montgomery was the first man to mount the works, but he instantly fell back, pierced by a ball in the head.

At this moment, Ensign Houston, leading the extreme right of the 39th regiment, scaled the breast-works, followed by his brave companions, and leaping down among the pent-up band of savage warriors, with drawn sword, cut his way through them. In the midst of this gallant feat, a barbed arrow pierced his thigh, but he heeded it not, till the enemy began to recoil under his onset, when, having essayed in vain to extract the arrow, he called upon one of his comrades to do it; but the man failing twice, Houston, with his drawn sword lifted on high, commanded him to try again, threatening to cleave him to the earth if he failed a third time. This time the arrow followed the man's hand, and with it brought away a mass of flesh and a copious stream of blood, when our hero re-crossed the barriers to have his wound dressed. While under the hands of the surgeon, Gen. Jackson recognized his young ensign, and commanded him not to return to the

battle: but Houston, heedless of restraint, rushed again into the fight, determined to win a warrior's fame. The action had now become general. The Indians had been told by their prophet, a brother of Tecumseh, that they should win the battle, and that a cloud in the sky would be a signal of their victory. At the moment when General Jackson had ordered the carnage to cease, and had sent an interprete r to command them to surrender, a cloud suddenly overspread the sky, and the savages, believing it to be the signal of their success, fired on the interpreter, and the battle was renewed. No quarter was given or taken, and the work of slaughter was continued, till scarcely an Indian was left as a living monument of victory—but the battle was not yet over. A large body of the savages had retired to a part of the works, built over a ravine in the form of a house-roof, and from the narrow port holes of this barrier a deadly fire was kept up on the whites. The artillery could not be brought to bear upon this point, and its occupants having rejected a proposition to spare their lives if they would surrender, General Jackson determined to take the place by storm. A body of men was called for by the general to make the charge, but no response was given, no captain offered to head the forlorn hope, when Houston, ordering his hesitating platoon to follow him, seized a musket from one of his men, rushed down the steep bank towards the covered ravine, and stopping coolly to rally his men within five yards of the port-holes of the enemy's works, bristling with rifles and arrows, he received two rifle balls in his right shoulder, just as he was levelling his musket, and his arm fell shattered at his side. Utterly disabled, though still on his feet, he implored his men to charge, but they refused, and then retreating slowly beyond the range of musket shot, he fell to the earth bathed in blood. The covered ravine was afterwards set on fire, and the sun of the 27th of March set upon the extinction of the tribe of Creek Indians.

Houston's heroism in this hard fought engagement excited the admiration of the whole army, and he was taken from the field, as all thought, a dying and a dead man. One ball was extracted, but the other was left, because the surgeon thought he could not live till the next morning, and did not wish to torture him. It was a dark night for the young warrior; for, comfortless as a camp is after a battle, it was more comfortless to him, because every body considered him as a dead man, and every body turned his attention to those wounded persons whom it was supposed could live. But Houston survived—survived not only to enjoy the lasting regard and warmest sympathies of his commanding general, because of his military prowess displayed in this terrible battle, but to found, establish, and lead to glory a commonwealth of freemen, in a land which he wrested from the foot of Mexican despotism. The next day he was sent on a litter to Fort Williams, sixty miles distant, where he lingered for a long time, between life and death, neglected and exposed, until he reached his mother's house, which was nearly two months after the battle. This long journey on a litter, while he was utterly helpless, suffering the most agonizing pains, sustained on the coarsest diet, obliged to encamp out with no shelter, and most of the way being through forests, was more calcula-

ted to kill him than to restore him; and when he reached the door of his mother's cabin, always open, as she told him when he enlisted, to the brave, she failed to recognize him, so reduced was he in flesh.

After a tedious convalescence, he became strong enough to ride a horse, and at once started for the city of Washington, by slow journeys, which he reached shortly after the burning by the British of the capitol and the other public buildings, and it was one of the keenest regrets of his life that his right arm should be disabled at a moment when the enemy had committed such a flagrant act of barbarism; but with his festering wound he repaired to Lexington in Virginia, where he tarried till the ensuing spring. Being recovered sufficiently to do soldier's duty, he recrossed the mountains, and at Knoxville met the tidings of the battle of New-Orleans. After the peace, and when the army was reduced, he was retained in the service as a lieutenant in the 1st Regiment of Infantry, which was stationed at New-Orleans. In the fall of that year, he embarked in a skiff on the Cumberland for his post, in company with the late Edward D. White, afterwards governor of Louisiana, and representative from that state in Congress for many years. He had with him, in his frail bark, with which he threaded the vast solitude of the father of waters, a choice but small library, and among its volumes were the Bible, a gift from his mother, Pope's Illad, his companion among the Indians, Shakspeare, Akenside, and Pilgrim's Progress. His skiff, turning a bend in the Mississippi, just above Natchez, brought to his astonished view the first steamboat that ever ascended the great river, and parting with his canoe at Natchez, he made the rest of his journey on the "fire ship" to New-Orleans, where he reported for duty. Here his wounds were once more re-opened, for the purpose of extracting a shattered bone from his shoulder; but this effort was a vain one, and the operation well nigh proved fatal. After a winter of great suffering, he repaired by sea to New-York, where he sojourned some weeks, and improved in his general health.

Having returned to Tennessee, he reported to the adjutant-general of the southern division of the army at Nashville, where he was stationed and detailed on duty in the adjutant's office on the 1st of July, 1817. In the following November, feeble as he was in health, he was despatched as an agent to execute a treaty just ratified with the Cherokees, for Gen. Jackson could find no one to discharge this duty, in whom he reposed so high a confidence as in Houston. Unfit as he was for public service, the lieutenant executed his mission with signal ability, and the same winter conducted a delegation of Indians to Washington. On his arrival at the seat of government he found that efforts had been made, by the parties interested, to undermine him with the administration, because he had, in discharge of his official duties, hindered the smuggling of African negroes from Florida, then a province of Spain, into the western states. He triumphantly vindicated himself, in the eye of the President and his administration, from the charge of having violated the laws, and demonstrated to their satisfaction, that he had done his duty as an officer of the army, in compelling an observance of the laws which forbade the introduction of African slaves into the country, and that, too, while suffering no respite from his painful wounds. It was Gen. Jackson's opinion at the time that Houston had not only done his duty in the

premises, but ought to have received at the hands of government the highest token of its appreciation of his sacrifices in the public service. But he regarded himself as slighted, resigned his commission in the army, returned with the Indian delegation to Tennessee, gave up his agency, and went to Nashville to study law.

Houston was now 25 years of age. In abandoning military life he had to bear with him a heavy load of debt, part of which was discharged by the sale of the last piece of real property he had, but the remainder was only satisfied after he had embarked in the practice of the law. In June, 1818, he entered the office of Mr. James Trimble, and after a few months of severe study, was admitted to the bar, and immediately commenced the practice of his new profession, with a small library, at Lebanon. Shortly after this event, he was appointed adjutant-general of Tennessee, with the rank of colonel, and rose so rapidly at the bar, that in October of 1819 he was elected district attorney of the Davidson district, which rendered it necessary for him to remove to Nashville. Brought into collision with the most eminent legal talent of the state, his powers of generalization and his sound judgment, in his new calling, gave him an advantage over his seniors that no opposition could dislodge him from; but after a twelve months' profitless discharge of the unceasing duties of his new office, he abandoned it, to rise to the highest distinctions of the profession, in its regular practice.

In 1821 he was elected major-general of Tennessee. In 1823 he offered himself as a candidate for Congress, and was elected without opposition. In 1825 he was returned a second time to Congress almost by acclamation, so well satisfied were his constituents with his course in the House of Representatives. His popularity rose to such a height that in 1827 he was elected Governor of Tennessee by a majority of more than 12,000 votes, and his accession to office found him without an opponent in the legislature. In the midst of his gubernatorial term, January, 1829, he contracted a marriage which, in less than three months thereafter, ended in a separation of the parties. It is not known, however, to this day, what were the real causes of this unfortunate result, for Houston's lips have never been opened on the subject to a single human being. It is enough to know that he changed all his plans and purposes in life, for he instantly resigned his office of governor, gave up all the bright future before him, and exiled himself from all the habitations of men. He went to the wigwam of his adopted father, the Chief of the Cherokees, in Arkansas, and sat down in the corner of the lodge that had been assigned him by the savages some dozen years before.

Tearing himself away from his sorrowing friends at Nashville, the voluntary exile, after many days of travel and toil, reached in safety the mouth of the Illinois, near the falls of the Arkansas, 400 miles to the northwest of Little Rock, where the Cherokees were settled. It was night when Oolooteka, the rich old chief, full six feet in height, and unbent by age, bringing with him all his family, hurried to the river bank to meet his adopted son Colonneh, (the Raven,) who, he had been previously informed, was on board the steamboat, then ascending the stream. The reception was all that the hospitality and simplicity of the Indian character could give to such a scene—the old chief delicately alluding to the dark cloud that had fallen across the path of the white

warrior, but assuring him, with the zeal of a prophet, that the Great Spirit had conducted the exile to the Cherokees, who were in great trouble, to give them counsel and to tell their sorrows to their great father, General Jackson. Three years' life among these sons of the forest afforded him ample opportunity to vindicate the oppressed red men from their wrongs and sufferings, and he proved himself to be, what they had always regarded him and still regard him, their friend. Houston has often declared that he was never betrayed or deceived by one of the children of the forest, during his intercourse of years with them; and this fidelity to him has been more than repaid, for there is not a single instance in his whole life in which he ever betrayed or deceived them, and this is one of the secrets of his power over them.

During his residence among the Cherokees, he saw with his own eyes and heard with his own ears the wrongs and sufferings inflicted upon and endured by these helpless Indians, and he resolved to report to President Jackson, who was still his tried friend, the conduct of the Indian agents and sub-agents, by which their victims were defrauded out of nearly every dollar of the money which was paid by treaty to this tribe. His opinion has always been, that if one-third of the money which has been paid by the United States to the Indians, had been usefully and honestly applied, they would now be in the enjoyment of most of the arts of civilization; but the fraud and injustice of the white agents sent among them, and the introduction of ardent spirits by their very protectors, are the means of the desolation and gradual extinction of these men of the forest. While he resided among the Cherokees, he was unceasing in his efforts to prevent the bringing of spirituous liquors amongst them; setting, himself, the traders an example of abstinence from trafficking in these destructive drinks. The intolerable and gross acts of outrage upon the rights and feelings of the Indians, by the agents of the United States, rose to such a pitch that, in execution of his long cherished design, he repaired to Washington in the year 1832, and laid before the President the clearest and most overwhelming evidence of the conduct of these government agents, and the result was, the dismissal of a large number of principals and accessories from the public service. Previous to his leaving the tents of the Cherokees for Washington, the parties, who knew of his purpose of exposing them, heaped upon his head the basest libels, through the press, which they controlled; and when the President's prompt and just removal of these men took place, the war upon him was resumed with redoubled violence, both in and out of Congress, and by the opposition press, both east and west of the mountains.

At that period the opposition to General Jackson had reached its zenith, and failing to touch even the hem of the old hero's garment, it turned upon Houston, who was the cherished friend of the President. Through the purposed neglect of the contractors for furnishing rations to the Creeks and Cherokees only a scanty supply of food had been issued to them at the most unhealthy point in the new country of these tribes, and several of them had actually died of starvation. Houston proved, beyond a doubt, that such a result was due to the inhuman acts of these contractors, in the premises, and they and their friends, in and out of Congress, attacked and pursued him with furious malignity. A

member of the House of Representatives from the State of Ohio, who had been elected as a friend of the President, was put forward to assail Houston; and he accordingly charged him with having endeavored to obtain a fraudulent contract for the supply of the Indians, and boldly intimated that the Secretary of War, and even General Jackson, were implicated in the attempted fraud. When Houston saw that the integrity and fame of the President had been questioned, because of hatred to him, (Houston,) his patience of evil for a moment forsook him, and he threatened, in the heat of passion, to punish the libeller. Knowing of Houston's threat, he kept out of his way for some days, till having learned that his opponent was unarmed, he approached him one moonlight night, on the avenue, in a hostile attitude. Houston recognizing him, demanded if he were not Stansbury, of Ohio; and no sooner was the avowal of his identity uttered, than he was felled to the earth by Houston, who had nothing with him but a hickory cane, which was shivered over the libeller's head, after he had snapped a pistol at H.'s breast. The chastised politician caused four processes to be commenced against Houston, in the hope of crushing him forever. He was first arrested and tried by the House of Representatives, for violating the rights of one of its members. The trial lasted thirty days, and ended in a vote of instruction to the Speaker to reprimand him, which was done in so delicate a manner that history regards the issue as a signal approval of what Houston had done. The conduct of Houston on that trial gained over to his side many of his opponents; and his defence of himself and President Jackson on that occasion is justly considered as one of the most powerful and convincing arguments that ever signalized the proceedings of a high court of judicature. It was shown on the trial that he had not done anything more than to protect himself, while unarmed, against the attempt of a member of the House to take his life, and the country saw and felt that such was the case; and what is more, that Houston was persecuted because of his attachment to Gen. Jackson, whose fair fame he would not suffer to be attacked, by even a member of Congress, with impunity. Deeply seated as was the affection of the American people for Houston previous to this occurrence, it took still deeper root when they saw him standing by the old chief at the risk of life itself, in the discharge of his solemn duties. The next process against him was his arraignment before a Committee of the House, to investigate the charge of fraud, brought against him by Stansbury, at the head of which committee was the libeller himself, but this process was consented to by the House at the instance of the accused. A tedious and thorough investigation resulted in a complete exculpation of the accused from the base charge. The next step his foes took was to submit a resolution, excluding him from the privilege of the floor of the House, but in this they failed also. The last act in the drama was, for the punished member to appear before the grand jury of the District of Columbia, and on his complaint Houston was indicted and held to bail in criminal process for a large sum. He waited his trial, and was fined $500 and costs; but the sentence of the court was never enforced; and one of the last acts of President Jackson was to remit the fine. During this whole contest, a contest brought upon himself by his love of truth and justice, and his friendship for the

Indian, Houston invited the most searching scrutiny into his actions and life, and exposed himself as freely to the weapons of his enemies as he had done at the battle of the Horse Shoe; and when they were obliged to retire with mortification and contempt from their ill-judged warfare against an honest man, he deliberately abondoned civilized life again, and went into his favorite exile among the Indians.

Received on his return to the West with every demonstration of regard, he could not be prevailed upon to remain in Tennessee, and though invited by Gen. Jackson to the most distinguished posts of honor and emolument, he rejected them all, and found repose by the hearth-stone of a savage monarch, after many months' persecution by the Christian. It was his intention now to devote himself to a herdsman's life, in the tranquillity of the prairies; but he was not permitted to carry into execution this design. Leaving his wigwam on the 1st of December, 1832, with a few companions, he made through the wilderness for Fort Towson, and reporting himself to the authorities at Nacogdoches, San Felipe de Austin, and San Antonio de Bexar, he held an interview with a delegation of Camanche Indians, then on a visit to the latter place. On his return, he was solicited by the people of Nacogdoches to establish himself amongst them permanently, and to allow his name to be used in the canvass for a convention, which was to meet in the following April, to consider the expediency of applying for the admission of Texas as a state into the Mexican Union. He consented, for he saw that a great destiny awaited the people who should inhabit that region; that this was a field wherein all the bold elements of his character could find full play, and that he might be enabled to so direct them in his new sphere, as to benefit his fellow men. Pending the canvass, he went to Nachitoches, in Louisiana, and reported to President Jackson the result of his interview with the Camanche Indians. This visit of Houston to San Antonio de Bexar was dictated by President Jackson, to ascertain the disposition of the Camanches to enter into treaties with the United States, and, with that object in view, to endeavor to prevail on a delegation of that warlike tribe of red men to visit Washington. The movement was only a part of the policy of the then President, looking to a final removal of all the Indians east of the Mississippi, to their present hunting grounds, and it was wisely considered that treaties with the Camanches would promote the voluntary emigration of the tribes to their new homes. The mission of Houston was confidential, and nothing, of course, is known of the details, but the results were most propitious, showing the wisdom of the old hero in the selection of his agent.

During his absence, Houston was unanimously elected a member of the proposed Texas convention, and he accordingly took up his residence among his new constituents, by whom he was warmly received. The convention, composed of some fifty members, met in a rude log cabin at San Felipe de Austin, the seat of government of Austin's colony, on the 1st of April, 1833. After thirteen days' deliberation, this able body of constitution makers, who had to pay their own expenses, unanimously adopted one of the very best state constitutions extant, and appointed Stephen H. Austin, William H. Wharton the president of the convention, and James B. Miller, to carry it to Mexico, and to seek for

and obtain the admission of Texas into the confederacy. In 1832, Bustamente had subverted the constitution of 1824, and in this effort he was joined by the military; but Santa Anna declared himself to be a friend of the constitution, and the Anglo-Saxon colonists sided with him in the civil revolution, which put down his rival and the soldiery. Santa Anna was now in power, and the convention of San Felipe regarded the mission of their committee as certain to be successful; but they were destined to be disappointed. Austin went alone to the city of Mexico, was received with a cold formality, and given to understand that his mission was not pleasing to Santa Anna, who was resolved from the first on converting the government into a military despotism. The greatest care was taken by the convention to form a constitution as consonant as possible to the prejudices and institutions of the central government, which had already degenerated into a despotism; and to give effect to this policy, all banks and banking corporations were prohibited for ninety-nine years by the proposed state; but the concession had no effect in recommending the instrument to Santa Anna. In passing, it may be observed that Houston's influence in the convention was so predominant, that he may be said to be the father of the constitution it made, and to have given direction to the events that followed.

Austin had been seized and thrown into a dungeon in the city of Mexico; and when the news of the fate of this enlightened patriot reached his colony, it roused the colonists to a frenzy of indignation, and it was with the utmost difficulty that Houston could restrain them from the display of their feelings in acts that would have plunged them into a conflict with the home government, before they were prepared for it. After several months of suffering, Austin was released by Santa Anna, and returned home to find the public mind of the colony inflamed to a dangerous degree, and to discover that Santa Anna was aiming at nothing less than the possession of absolute power. The commerce of Texas was now most oppressively restricted, the worst men were appointed to collect the customs, taxation was increased to a ruinous height, justice was refused to the people except at the price of enormous extortions, and the Mexican laws and edicts were made the instruments of wholesale tyranny in the hands of corrupt officials. This was the beginning of the end. An edict, issued by Santa Anna, commanding the people to surrender their arms, roused the colonists to resistance. There was a four pounder at Gonzales, the capital of Dewitt's colony, and a Mexican colonel, at the head of several hundred dragoons, came from Bexar to carry it off; but the colonists banded together, and not only rescued the small piece, but determined to pursue the enemy who had fired the first gun, and drove him from the country. Austin was elected general of the forces; the alarm spread to the Sabine, committees of vigilance and safety were appointed, and the militia was organized, Houston was chosen general of the forces east of the Trinity, and a consultative body convened at San Felipe de Austin to devise means of safety. In October, 1835, Austin marched upon Bexar and invested it with eight hundred men. The consultative committee was organized at San Felipe de Austin, when it received an invitation to repair to Bexar. In the meantime, Goliad had been captured by the citizens of Matagorda and Victoria. On the arrival of Houston

and the greater part of the convention at Austin's camp before Bexar, Austin offered to surrender the command to Houston; but the latter positively declined the magnanimous offer. A council of war was immediately held, and it was resolved to refer to the army the question of forming a provisional government, when it was unanimously voted that the members of the consultative committee should forthwith return to San Felipe, form a provisional government, devise ways and means to support the army then in the field, and adopt such measures as would give the nation credit abroad. Accordingly, the consultation assembled at San Felipe, in a narrow frame cabin, without ceiling or plastered walls, and made a provisional declaration of independence, exhorting all Mexicans to stand by the Mexican constitution of 1824, and pledging their lives, property, and sacred honor in support of its principles, established an organic law for the provisional government of the territory, and organized a temporary administration of it. Houston was on the committee to prepare a declaration, and though the majority were in favor of an absolute declaration of independence, he considered the movement premature, and in an able speech, carried his policy of a provisional declaration. The provisional government was to continue in office till superseded by regular officers elected by the people, and measures were taken for raising a regular army and thoroughly organizing the militia.

An event now took place which decided the fate of Texas, and that was, the election of Houston, by 49 out of 50 votes in the consultation, to be commander-in-chief of the armies of Texas. He accepted the appointment, selected his staff, and drew up the necessary bills for organizing the army, appointment of officers, &c. Texas had not a dollar in her treasury at this juncture; but Austin, Wharton, and Archer, were already on their way to the United States to borrow money, if possible, to enable the revolutionists to make good their cause. Houston's hopes of money were not sanguine. He relied on the resources, rather, of the handful of his fellow-citizens who were embarked in the same cause with himself, and on the generous patriots of the country whence he had exiled himself. He issued a proclamation, inviting 5,000 men to join the cause of Texas. Austin was succeeded by Gen. Burleson, under whose command the army kept the field.

About this time, Fannin and Bowie, with 100 men, encountered 500 Mexicans at the Conception Mission, and, after a brilliant conflict, forced the latter to retire with great loss, and marched on to Bexar. After this event, Col. Milam offered to take the town of Bexar by storm, if a forlorn hope would join him, and immediately 200 brave men rallied under his banner, entered the town at night, made their way from house to house, with crowbars, through the walls, and, after several days' fighting, in one of which the daring Milam fell, got entire possession of the place, and the Alamo, the enemy's citadel, defended by 1,100 Mexicans, capitulated. The surrender of Bexar was followed by a disbanding of the colonial army, save the gallant spirits who had reduced the Alamo, and two companies of volunteers from the United States. A man by the name of Grant, who was aid to General Austin, claimed the command of the remnant of the troops after General Burleson had retired, and forthwith he projected the invasion of Matamo-

ras, and he was supported in the project by the military committee of the general council that was hostile to Houston. Col. Fannin united with the council in its schemes against his commander, notwithstanding he was indebted to Houston for his promotion to the post he then held. The council ordered Houston to establish his head-quarters at Washington, fifty miles distant from their meeting, and, in his absence, hurried on their intrigues as rapidly as possible; while, unsuspicious of their designs, he assigned the officers to their several recruiting stations, and directed regular reports to be made to him. Fannin had been ordered to Brazoria, where he utterly disregarded the dispatches of the general-in-chief, who, about this time, was charged with a design, by his enemies, of establishing a military government in Texas at the head of 5,000 soldiers.

On the first of January, 1836, Governor Smith, who had discovered the intrigues against the general-in-chief, ordered him to repair to San Felipe. More troops from the United States had arrived at the mouth of the Brazos; but Fannin, who was at Brazoria, refused to report their arrival at head-quarters, though directed to do so, and, abandoning his duty in the regular army, took command, as colonel, of the new regiment formed out of the volunteers just arrived, to which post he had been elected by the council. The new regiment was ordered by the council to rendezvous at Refugio, where it was to meet Grant with his command, and thence the expedition to Matamoras was to set out. Houston reported to the governor, and was ordered to Refugio. He reached Goliad about the middle of January, and finding Grant and his force on the eve of their departure for Refugio, made known to the troops his orders, but Grant refused obedience to them. Ignorant of the extent to which the council had gone in thwarting his policy of preparing for the enemy when he should appear in force, Houston could not account for the extraordinary conduct of Grant; but, knowing it was impossible to hold Bexar, he dispatched Cols. Bowie and Bonham with an escort to that town, with orders to the commanding officer to blow up the Alamo, and fall back to Gonzales, on the Guadalupe, which he intended to make the line of defence. He accompanied the troops to Refugio, but Fannin was not there; whereupon, he took occasion to dissuade the officers and their men from persisting in their attempt on Matamoras; showing them the folly of the undertaking, in a military point of view, and the certain disaster that awaited it; but fearing the effect of sedition in the army, which he saw it was easy to excite, in consequence of the reluctance of the troops to bow to the command of any other general than himself, he set out from Refugio in the night, with his staff, and returned to San Felipe, to report to the governor his failure to induce Grant and other officers to return to their duty. On the road, he got intelligence that the council had deposed the governor, and superseded his own authority, and that Fannin had repudiated, in published letters, Houston's authority, and thrown himself on the council. His eyes were now opened to the true situation of the country, and he hastened to San Felipe, made an official report to the deposed governor, proceeded at once to the Texas Cherokees, formed a treaty with that tribe, in obedience to the instructions of the convention, and returned to Washington in time to be present at the

general convention of the 1st of March, 1836, to which he had been chosen a delegate.

On the day after its organization, the 2d of March, 1836, the Declaration of Texan Independance was adopted and signed by the whole convention, and herein was felt and acknowledged the master-spirit of Houston, who, from that hour, was the savior of his country. Events had contributed to precipitate public opinion in favor of the Declaration of Independence, but no influence operated so powerfully towards the accomplishment of that glorious result as the indomitable will and all-controlling energy of Houston. In the United States and in Europe, it was styled, by the enemies of democracy, an act of high-handed robbery, perpetrated by a band of bold outlaws; but to every man who believes that all political power is, and ought to be, derived from the people, by express and direct grant, and that all people, whenever they choose to exercise it, have an inalienable right to overturn every form of government which is not based upon this democratic principle, the Declaration of Texan Independence was a just exhibition of the rightful power of the people, destined to be crowned with success. Some days before the consummation of this act, letters had been received from Col. Travis, in command of the Alamo of Bexar, stating that he was besieged by a numerous force, and calling for assistance. Houston, foreseeing this result, had given orders to the commanding officer to blow up the citadel and retire, but he refused obedience, because the council had directed him to hold out to the last, promising to reinforce him, which was done with 30 men, making his force 185 effective troops, without a month's provision, and cut off from the settlements by a territory seventy miles in width and traversed by the enemy's cavalry. The general convention took the place of the provisional government, and Houston resigned his major-generalship, but there was no other man in Texas to whom the country could look in its then need, and he was re-elected general-in-chief, by 55 out of 56 votes. He accepted the command. On Sunday, the 6th of March, a letter was received from Col. Travis to the president of the convention, the last he ever wrote, announcing that all was lost; whereupon the convention assembled in a tumult, and a motion was made that the convention should adjourn, arm, and march to the relief of the Alamo. Houston, seeing that the hour had come when the action of the convention would decide the fate of Texas, determined what the council should do, and what he himself should do also. He opposed the motion in one of those effective speeches he is always remarkable for, when any great act is to be done, denounced it as treason to the people, advised the convention to remain calmly at their posts and do their duty to the country, by organizing a government, without which they could not hope for the sympathy or respect of mankind. He spoke for an hour, and when he had finished, walked out of the convention, and in a few minutes thereafter, with three or four companions, he was on his way to the Alamo.

The party rode hard that day, and gained the prairie, where they rested for the night, but at break of the following day Houston was seen at a distance, by himself, listening intensely, as if expecting to hear a signal, for Travis had written, that as long as the Alamo could

hold out, signal guns would be fired at sunrise. For many successive days these guns could be heard across the prairie, with a low, rumbling sound, for nearly two hundred miles; but that morning Houston, whose sense of sound was as acute as that of the Indian, listened in vain—not the faintest murmur floated across the air. He knew the Alamo had fallen, and the event confirmed his convictions, for the Alamo had fired its last gun on the morning he left Washington; and at the very moment he was addressing the convention the victims were meeting their dreadful fate. He returned to his companions and wrote a letter to the convention, advising them to adopt a resolution declaring Texas to be a part of Louisiana, under the treaty of 1803; but he was not present to enforce this wise suggestion, and it was not heeded. He reached Gonzales on the 10th of March, where he found 374 men, unorganized, without supplies, and badly armed and clad. Previous to leaving Washington, he had sent an express to Fannin, ordering him to join him on the Cibolo, intending to march to the relief of the Alamo; but after the fall of that fortress was positively known, the general, by another express, apprised him of that fact, ordered him to evacuate Goliad, blow up the fortress, and fall back without delay on Victoria and Guadalupe, so as to unite all the forces in the field, amounting to 900 effective men.

The news of the cold-blooded massacre of the Alamo, and the burning of the dead upon a vast funeral pile, flew like lightning through the colonies, and stirred up a feeling that was never to sleep again. Fannin's last order reached him eight days before he attempted a retreat, and he replied to the general-in-chief that he had held a council of war, that he should not retreat, but would defend his post to the last, calling it Fort Defiance, and that he was prepared to answer for his disobedience of orders. On the 12th of March, Mrs. Dickinson arrived with her child at Gen. Houston's camp, with two negro guides, who brought a proclamation of pardon to the insurgent colonists, if they would lay down their arms; but the proclamation was treated with contempt. Mrs. Dickinson was the wife of one of the slaughtered of the Alamo, and her account of that terrible scene, of which she was an eye-witness, had struck horror into the camp, before she was conducted to the general, who, at the moment of her arrival, was walking alone, a short distance from his tent. When she told the troops that 5,000 men were advancing by forced marches, and that the artillery would soon be heard at Gonzales, consternation spread on all sides—many setting fire to their tents, some flying, and others wild with lamentations. Houston coming up, ordered the fires to be extinguished, and learning the cause of all this commotion, called to his comrades, who gathered round him, and encouraged them to be of good cheer, announced to them that he should fall back to a more secure position, and accordingly, that same night, he ordered his camp to be struck, and the little band took up their line of march. Foreseeing all the disasters that followed, the general-in-chief, when he first reached Gonzales, ordered all the women and children to be sent to the inner settlements, being resolved that he would never leave the helpless to the mercies of Mexicans. On arriving at Lavaca, he remarked to one of his aids, as he pointed to the little band that seemed but a handful on the prairies, that they both saw be-

fore them the last hope of Texas; that neither Fannin nor his men would ever be seen again; that with the 500 men in sight Texan Independence must be asserted or lost. That night he was seen feeding a fire with splinters to make a light, by which one of his aids reduced to writing his orders to the settlements on the Brazos to send him cannon, mules, horses, and ammunition. On reaching Navidad the next day, he was informed that a blind woman and seven children had been passed, without notice having been given her of the approach of the enemy, whereupon he ordered an aid-de-camp and 50 men to go after them and bring them into camp, refusing to stir a foot forward till these helpless ones were safely brought in.

One of the general's dispatches to the military committee, dated Navidad, sets down the force at 374 men, with two days' provisions, many without arms and ammunition, no artillery, and all of them ignorant of the first principles of the drill. In the same dispatch he predicts, with fearful certainty, the tragedy of Goliad, and demonstrates that the affairs of the Alamo and Goliad were the obvious fruits of disobedience of orders. On the 17th of March he reached the Colorado, and, having crossed that river, wrote to the military committee that, if only 300 men remained with him, he would conquer the enemy. In a few days, Gen. Zesma, at the head of a column of the Mexicans, reached the Colorado, and, while attempting to cross, was only prevented from falling, with his whole force, into an ambuscade, by the imprudence of a portion of the party lying in wait. On the night of that day, a fugitive came into the Texan camp, and announced the massacre of Fannin and all his men. This intelligence filled the army with consternation and despair; and had it not been that the general-in-chief denounced the fugitive as a Mexican spy, though fully believing in the truth of the news, it is now regarded as certain that his whole army would have deserted. He caused the fugitive to be arrested, announcing his intention to have him shot the next morning, and, addressing his little army, he offered them many reasons why there should be no truth in the story. A few days after this event, the army encamped on the Brazos, where it remained till the 11th of April, with a small steamboat at command. The detachment left in charge of San Felipe, on the arrival of the enemy, retired to the east bank of the river, and threw up a breast-work of timber, upon which the Mexicans opened their artillery, and this gave the general the first notice of the approach of the enemy's main body. The entire force of the Texan army, at that moment, did not exceed 520 men; but a reinforcement of 500 from the Red Lands was daily expected; and they would have reached the camp in due time, had not the enemies of Houston, in order to prevent their going forward, raised the cry of Indian hostilities, and thus induced them to pause in their march.

The enemy were marching upon the Texan general in three columns—the centre, led by Santa Anna, from Bexar, by way of Gonzales, San Felipe, and Washington, towards Nacogdoches; the southern column, under Urrea, by way of Victoria, Brazoria, and Harrisburg; the northern column, under Gaono, by way of Bastrop, Tenoxtitlan, and the Camanche, crossing towards the Trinity, both the latter towards the same point. Houston saw at once these movements of the enemy

had to be broken up in less than thirty days, or Texas would be swept with the besom of desolation, and all would be lost. How this seemingly impossible work was to be achieved, no man but Houston knew, and all eyes were turned to him as the only and last hope of Texas, under Providence. While it was commonly believed that his army numbered 2,500 men strong—a belief, the error of which he took no pains to correct, lest it might thereby discourage reinforcements—his real situation was only known to the committee of safety at Nacogdoches. The rivers were, everywhere, at high flood at that time, and he had reason to hope that this impediment would retard the progress of the enemy; but, by means of a boat which had been incautiously carried to the western bank, Santa Anna was enabled to pass the Brazos at Fort Bend on the 11th of April. The northern column became bewildered in its march, and descended the Colorado; and the southern division, hindered by the high water, never passed the Brazos at all.

After Houston had left the convention so abruptly on the 6th of March, that body created a government *ad interim*, consisting of a president and heads of departments, and then, instead of following Houston's advice, to remain at their posts, adjourned on the 17th of March, in consternation and dismay, to Harrisburg, seventy miles southeast of Washington. This dispersion of the convention prevented, more than anything else, the assembling of reinforcements for the army; and Houston has always regarded it as fraught with greater evils to Texas than even the march of the barbarous enemy. But out of evil frequently comes good, for Santa Anna abandoned his general plan of invasion, so far as to diverge from his route to Nacogdoches, with a view to capture the new government, which, he had been informed, was at Harrisburg, towards which point Houston, now supplied for the first time with two six-pounders, hastened with his whole army. After a fatiguing march, he arrived at Harrisburg, just after it had been reduced to ashes by Santa Anna, and captured two couriers from the city of Mexico, with important intelligence for the invading army. The general-in-chief at once decided upon giving battle, and issuing the necessary orders for the army to supply itself with three days' cooked rations, crossed the Buffalo Bayou with great difficulty in a leaky boat, and on the 19th of April formally announced his determination to fight Santa Anna wherever he could find him. "We are but 700 strong," said he, in his dispatch to the Secretary of War, "but we go to conquest." The army was drawn up, and Generals Houston and Rusk (the latter Secretary of War) addressed their comrades in few but stirring words, giving the watchword, "Remember the Alamo."

Warned that Santa Anna was marching in order to cross the San Jacinto, Houston anticipated him, and posted himself in a copse of trees on a bend of the Bayou Buffalo, near where it joined the San Jacinto, and prepared to give him a hot reception. The Mexican was fully apprised of the position of the Texan, and boldly moved upon the latter, opening the battle with a brass twelve-pounder; but a well-directed fire from Houston's two six-pounders turned the enemy's infantry and forced it to take shelter in a grove of timber. This movement of the Mexican being checked, he fell back near the Bay of San

Jacinto, about fifteen hundred yards from the Texan lines, and began a fortification. "Had I pursued the enemy this morning," said Houston to one of his confidential officers on the evening of the day on which he repulsed the Mexican column, "we should have conquered, but it would have been with a heavy loss; but to-morrow I will *conquer, slaughter, and put to flight* yon whole army, and it shall not cost the lives of a dozen of my brave comrades." Col. Sherman, during the day, became impatient of delay, and in disobedience of his superior's orders, endeavored to bring on a general engagement, and it was only prevented through the activity of the general-in-chief, and his prompt countervailing commands and actions. The Texan army retired to their camp, and refreshed themselves for the first time in forty-eight hours. During the whole of the day, Houston remained in the saddle, exposed to the enemy's artillery, and more than once narrowly escaped with his life. After doubling the vigilance of the encampment to prevent surprise, he laid himself under an oak to rest, with his saddle for a pillow, and without covering, slept undisturbed through the whole night, and when he awoke in the morning, it was observed that every shade of anxiety had disappeared from his brow.

Ordering two of the best axes in the camp to be brought to him, he gave them to his faithful and intrepid comrade, Deaf Smith, with directions to conceal them, so as to be able to lay hands on them at a moment's warning, and not to be out of his call the whole day. The morning wore away, and Gen. Cos was seen with 540 men moving over the prairie towards the enemy's camp; but Houston, apprehensive of the effect of such intelligence on his little band, pronounced the affair a mere *ruse* on the part of Santa Anna, and his opinion was publicly sustained by the spy, who had been sent out to ascertain the real state of facts. At this juncture, a council of war consisting of six field-officers was called, at their suggestion. The general-in-chief, seated on the grass beneath a post oak tree, submitted the proposition whether they should attack the enemy in his position, or whether they should wait for him to attack them in theirs? The two juniors in rank were in favor of attack, but the four seniors objected, alleging that such a movement as charging a disciplined army in position by a raw soldiery, advancing in an open prairie, without the cover of artillery, and with only two hundred bayonets, was an unheard-of thing. The council was dismissed. The troops were sounded as to an attack, and were found to be favorable, and the general at once determined, on his own responsibility, to give battle. Deaf Smith and a companion were now summoned to the general's side, and ordered to take the axes, which had been provided, and cut down Vince's bridge, over which both armies had reached the battle ground. It was now three o'clock in the afternoon, and still the enemy showed no disposition to come to an engagement. Things had taken just such a course as the general-in-chief expected, and he at once began to prepare for the attack. The first regiment under the command of Gen. Burleson was assigned to the centre, the second regiment under Col. Sherman formed the left wing, while the artillery under Col. Hockley, and four companies of infantry under Lieut. Col. Millard occupied the right. The cavalry, 61 in number, led on by Col. Lamar, moved on the extreme right, and

in the course of a few minutes the whole army, advancing rapidly in line through the open prairie, were within two hundred yards of the enemy's breast-works. The left wing was under the command of Gen. Rusk, who turned the enemy's flank in gallant style, while the centre was led on by the general-in-chief.

The moment had at last come, the charge was ordered, and the war-cry, "*Remember the Alamo*," resounded from all sides with a terrific shout, while the two six-pounders opened a well-directed fire of grape and canister. At that instant, Deaf Smith, swinging an axe over his head, rode up and communicated with the general, who immediately dashed along the lines and announced the destruction of Vince's bridge. "Now fight for your lives, boys, and remember the Alamo!" exclaimed the general, in a clear, distinct voice. The effect of this intelligence was electric, and the whole column of seven hundred Texans, swayed and animated with the strength and fury of ten times seven hundred men, rushed forward, with Houston at their head, right into the teeth of their foe. The Mexicans were drawn up in perfect order, and reserved their fire till the Texans were within sixty yards, but the mass of their storm of lead went over the heads of the assailants. One ball shattered Houston's ankle, and several struck his horse in the breast, but heeding none of these things, the general spurred his charger on with redoubled speed, closely followed by the whole column at an increased and fearful pace. The Texans reserved their fire till within pistol-shot, when every ball told with dreadful effect on the Mexican lines, and before the latter could reload, they were engaged hand to hand with their infuriated foes, who, on their side, not stopping to reload their rifles, broke them over the heads of the invaders, discharged their pistols, and closed the work of slaughter with their huge bowie knives, by absolutely hewing their way through dense masses of living flesh. The right and left wing of the enemy had been routed, but his centre remained firm, and, at one moment, repelling the desperate charge of the Texans, he was preparing with a division of more than five hundred men to fall upon the battalion of Texan infantry, when Gen. Houston, seeing the movement, putting himself at the head of his comrades, and calling on them to follow him, gave the order to fire. There seemed to be but one explosion, so instantaneous was the fire, and the enemy's charging force was literally mowed down as with a scythe—only thirty-two out of five hundred remaining in their shoes as prisoners of war. This movement decided the fate of the day, and the next instant the Mexicans were flying in every direction before their pursuers, who continued to *remember the Alamo*, and executed fearful vengeance on their barbarous foe. The enemy left in his entrenchments, amongst the dead and wounded, nearly half of his eighteen hundred effective men, who went into battle that day; and at Vince's bridge and the morass in the rear of his camp, nearly four hundred are supposed to have been slaughtered. Towards the close of the day, Houston's horse fell beneath him, pierced by no less than seven balls, and in falling brought his master to the earth on his wounded leg; but calling for another horse, he remounted, and rode slowly across the field, cheered by his comrades. As he moved along, he spied two large ravens hovering over the spot where the enemy's artillery had been posted, with their heads towards the

west. In a moment several muskets were seized by the men standing near, to bring them down, but Houston ordered them to desist, remarking, that the omen was a good one—that it denoted the march of empire westward. Arriving shortly afterwards at the oak under which he had slept the previous night, he received Almonte as a prisoner of war from the hands of Gen. Rusk, and, exhausted by loss of blood, fainted and fell from his saddle.

Thus ended the bloody battle of San Jacinto, a battle that has no parallel in the annals of human warfare, for the accomplishment of so great a result as that which followed it, with such insignificant means as those which were employed by the mighty man who led his comrades to victory. Of the eighteen hundred men comprising Santa Anna's army, seven only escaped from the field, leaving eight hundred as prisoners of war, while all the rest perished. The Texan loss was seven killed and thirty wounded! The next morning a detachment was sent by the victor to bury the enemy's dead, but they returned and announced that decomposition had progressed so rapidly as to render it impossible for them to execute the order. In the meantime the Texans were scouring the country and bringing in prisoners. Houston gave orders to examine closely every captured man, predicting that Santa Anna would be caught making his retreat. Lieut. Sylvester, of Cincinnati, was riding over the prairie about three o'clock on the day after the battle, when he espied a man running towards Vince's bridge. The moment the fugitive saw that he was pursued, he sank down in the grass, but upon Sylvester's coming up to where he was, he sprang to his feet and looked his captor full in the face. Sylvester saw at once that the skin cap, the round jacket, the trowsers of coarse blue cotton, and the common shoes, were a disguise, and being joined by his companions, conveyed the prisoner to camp, who desired to be carried before Gen. Houston. As he passed the Mexican prisoners, their exclamations betrayed his character—it was Santa Anna! He was taken at once to Houston, who was lying on the ground endeavoring to compose himself to sleep. He took his victor's hand, when the latter, rousing himself, looked up in the face of the Mexican, who announced himself to be the President of Mexico, and Houston's prisoner of war. Houston asked the prisoner to be seated on a box near by, and sent for Almonte to interpret, when the following conversation took place between the two generals, Houston resting on his elbow upon the ground:

Santa Anna.—The conqueror of the Napoleon of the West is born to no common destiny, and he can afford to be generous to the vanquished.

Houston.—You should have remembered that, sir, at the Alamo!

Santa Anna.—The Alamo was taken by storm, and the usages of war justified the slaughter of the vanquished.

Houston.—Such usages do not now prevail among civilized nations.

Santa Anna.—I was acting under the orders of my government.

Houston.—You are the government yourself, sir.

Santa Anna.—I have such orders in my possession.

Houston.—A dictator, sir, has no superior.

Santa Anna.—My orders were to exterminate every man found in arms in Texas, to treat all such as pirates, because they have no government and are fighting under no recognized flag.

Houston.—I have no doubt you have found out by this time that the Texans

have both a government and a flag; but admitting the force of your plea for the San Antonio massacre, you have no excuse for the Fannin slaughter, for he had capitulated on the terms offered by your general, and yet his whole command was murdered without arms in their hands.

Santa Anna.—I knew nothing of their capitulation, but ordered their execution upon the representation of Gen. Urrea, that he had conquered them in battle.

Houston.—I *know*, sir, that the command had capitulated.

Santa Anna.—Then I was ignorant of the fact; and if ever I get Urrea into my hands, I will execute him for his duplicity, for he had no authority to receive their capitulation at all.

Here the conversation ended for a while, and Santa Anna asked for opium, which was given him, when Houston ordered his marquee and luggage to be restored to him, and requested him to give directions to the other divisions of his army to instantly evacuate the country and retire to Monterey, which directions were at once given, and intrusted to Dick Smith to be delivered. Almonte and Houston then entered into conversation, in which the latter vindicated his policy, to the full satisfaction of the former, of postponing the battle to the second day, and when the conversation was interpreted to Santa Anna, he remarked that he now for the first time understood the American character, and that he was convinced Americans could never be conquered.

Houston knew that there was scarcely a man in the army who did not wish to see Santa Anna expiate his crimes upon the scaffold, but he determined that no violence, no indignity should be offered to the captive; and in this resolution he was influenced, first, by the great principle of charity to the neighbor, and secondly by the dictates of a just public policy. He had great difficulty in preventing his assassination; but his superior knowledge of what was in man enabled him to counteract the feelings of vengeance that were too deeply indulged in by the army; and when the hour and the occasion passed,—when men saw how much and how unworthy they had been under the influence of their passions,—how Houston had saved them from themselves, it was universally acknowledged that no man but Houston could have prevented the murder of Santa Anna. On the first night after his capture he slept in his marquee, with every comfort of camp life, while his victor lay on the cold ground near by, suffering excruciating pain from his wound. The next day, Santa Anna, elegantly clad in the garb of a civilian, approached Houston prostrate with his wound on the earth, dressed in an old black coat, a pair of snuff-colored pantaloons, a black velvet vest, a fur cap, and a worn out pair of boots, with a huge sword attached to his side by buckskin thongs. To the proposition of the former for his liberty, Houston replied that he had no power in the premises; that the question would be referred by him to the Government of Texas,—intelligence that was exceedingly distasteful to the Mexican.

Meantime, the other divisions of the invading army commenced their retreat from Texas to the west side of the Rio Grande, under the express orders of their captive president, which had been forwarded to them by Houston. When the news of the victory reached the ears of the fugitive *ad interim* government of Texas, its members slowly

repaired to the head-quarters of the general-in-chief. Houston's advice to the government was, to treat with Santa Anna on the following terms:—1. The recognition of the independence of Texas by Mexico. 2. The western limit of Texas to be the Rio Grande to its source. 3. Indemnity for all losses sustained by Texas during the war. 4. All Texan prisoners to be restored to liberty. 5. Instantaneous withdrawal of all Mexican troops from Texas, and the restoration of all property to its owners. 6. The retention of Santa Anna as a hostage, till these provisions of the treaty were executed. Volunteers now began to rush in from all quarters, and Houston being rendered helpless by his wound, Gen. Rusk, at his instance, was appointed by the government to succeed him in the command of the army, that now required the most rigid discipline and order to be maintained to make it effective. Santa Anna, from the time he was delivered over to the government, experienced a great change in his treatment, and was subjected to the most irritating and humiliating surveillance. The hostility of Houston's home enemies, that first manifested itself in the conduct of the military council, and in the affairs of Fannin and Grant, though silenced for the time being by the presence of the common foe, now broke out afresh, and as the *ad interim* president and many of the civil officials were of this party, the hero, who, by his valor and wisdom had saved the country, was subjected to even more harsh treatment than the captive president of Mexico, from whose first approach they had fled in terror. Instead of treating him with all the consideration that his eminent services merited, these ungrateful and timid men, who chanced to be in authority, absolutely determined to leave the victor upon the field of San Jacinto to die, and refused him, to his face, a passage on the steamboat that was to carry them and Santa Anna to Galveston. But the captain of the vessel vowed that he would never leave the shore without Houston, and, taking his crew, went and brought the wounded soldier on board. The surgeon-general was discharged from the service by Col. Lamar, the new Secretary of War, for accompanying the wounded chief to Galveston, and the general was refused, by the government, a passage in the Texan ship-of-war Republic, then about to sail for New-Orleans. These petty annoyances ruffled not his temper, though it excited the indignation of the people and the army, but he exhorted them not to be carried away by any feeling for him—to do their duty to their country. His address to the army, on parting with them for a season, is full of the gratitude and affection which a brave man only can feel for the brave, and teaches that subordination and discipline are the only roads to military invincibility. Embarking with his staff on board the little American schooner Flora, he reached New-Orleans, after a long and tedious passage, in a dying state, as was supposed. He carried with him the first confirmation of the news of the great battle. He was landed amid the greatest excitement and rejoicing, and after a two week's sojourn at the house of his friend, Col. William Christy, he so far recovered as to set out on his journey for Texas again, but this time by the way of the Red River. Arrived at San Augustine, he heard that the government had made a treaty with Santa Anna on the basis of his (Houston's) recommendations, and was resolved on his liberation, but there was also intelligence that the

enemy was preparing for another invasion; whereupon he addressed the people with such effect that 160 men took up arms and set out for the frontier. Meantime, news was received that the army had demanded of the government the surrender, trial, sentence, and execution of Santa Anna, upon which the hero immediately addressed a remonstrance to the army against the consummation of such an act, as violating the principles of humanity and the terms of the treaty, as contrary to the true policy of Texas, and as utterly destructive of the national character of the new Republic. This protest saved Texas from the ignominy and execration which such an act would have surely brought upon her fair fame and name, and Houston removed to Nacogdoches, where he nursed his wound till the following autumn.

After the adoption of the treaty of the 14th of May with Santa Anna, after he was on board the Texas war-schooner Invincible, bound for Vera Cruz, and after he had issued his farewell address to the Texan army, in which he gave them all credit for their courage and generosity, and promised them they would never have cause to regret their kindness, Mr. Thomas J. Green, who had just landed at Velasco with about 100 volunteers, determined that Santa Anna should be tried and executed. The popular feeling was on his side, Lamar had issued his protest against the Mexican's release, and the president *ad interim* yielded to this outrageous violation of the public faith, formally pledged in the treaty of the 14th of May, and ordered the captive on shore; but the latter refusing, Green went on board the vessel, and by the exhibition of brute force, compelled him to yield, after a protest against the act, which absolved him from all legal obligations imposed upon him by the treaty. How different would have been the result had Houston been at Velasco, may be inferred from his known regard for law and the public faith; for when intelligence of this act reached him, he promptly remarked, that had he been the president, he would have upheld the faith of the nation at all hazards, and before the mob should have laid hands on Santa Anna they would have had to pass over his dead body. About this time, Col. Lamar was appointed general-in-chief of the army, over the heads of Houston and Rusk; but on repairing to head-quarters, not one in eighteen out of 1,800 troops in the camp would consent to serve under him—the rest positively refusing.

The administration *ad interim* feeling that they had not the confidence of the people, and swayed by no other motive than hatred of Houston and a wish to crush him, which they became convinced it was impossible to do, gladly gave way to the election of a president by the people, which had been provided for, under the new constitution. Houston was pressed on all sides to consent to take the office, and seeing that the time had come for him to save the new Republic a second time, but this time from its internal foes, he assented, and was elevated to the presidency, almost by acclamation. An election, at the same time, took place for senators and representatives, and on the 3d of October, 1836, the first Congress of the Republic of Texas assembled at Columbia, and the new president was inaugurated on the 22d of the same month. A brief, but masterly inaugural address, breathing the wisdom of counsel in every line of it, and the laying of his sword upon the civil altar,

constituted the principal ceremonies. The selection of his heads of departments was guided by the most magnanimous policy, and the people, for the first time in their existence as a nation, felt that their government would be administered with purity, honesty, firmness and wisdom. Santa Anna, during these events, had been saved from the fury of his insensate enemies, and was detained as a captive, under a guard of twenty men, about twelve miles from the seat of government, whither Houston repaired, determined to wipe out the stain of dishonor from the name of Texas, with which the conduct of the late administration had sullied it. Gen. Jackson, to whom Santa Anna had written, after the violation by Texas of the treaty of May 14th, replied to him in terms of the highest praise of Houston's treatment of him, after the battle, and considered it as even of greater value than the victory itself —for, said the old hero: "Let those who clamor for blood, clamor on, the world will take care of Houston's fame!" After a brief contest with the Senate, which was for detaining the prisoner, Houston determined to release the captive at once, on his own responsibility; and on the 25th of November, Santa Anna, attended by Colonels Hockley and Bee, and Major Patton, set out for the seat of government of the United States, by way of the Sabine.

President Houston now dispatched Wm. H. Wharton and Memucan Hunt, as Ministers to Washington, with instructions to commence negotiations for annexing Texas to the United States; but such was the temper of the public mind upon this question, at the time, in this country, that nothing was effected beyond sowing the seed of so natural and so wise a policy, though through the agency of Preston, of South Carolina, and Walker, of Mississippi, and other distinguished senators, the independence of Texas was acknowledged by this government; and the last time Gen. Jackson ever put his pen officially to paper, was to sign the resolution of Congress to that effect. Houston's policy, from the beginning, was annexation to the United States; but as his offer had been rejected by our government, he determined to conduct his administration on principles that would secure confidence at home and inspire respect abroad; to lay the foundations of the republic deep and strong; to husband its resources; never to cripple the state with a public debt; and to be the president of the whole people, and not of a faction. Such was his cultivation of friendly relations with the Camanche and other Indian tribes on the frontiers of Texas, that he saved the republic from their incursions, and made them to love and venerate his name. As yet, the government had no money in its treasury, except its own paper—had no credit to borrow any—and still there was an army in the field of 2,400 men, which had to be supported. A crisis, even more dangerous than any that had arisen hitherto, now assailed the country—it was threatened with a collision between the army and the civil authority. The general of the army had projected an expedition against Matamoras, and to his standard flocked all who were discontented with the president, while the second in command of the army threatened to march to Houston, and overturn the government. The president saw the evil that had come upon the country, and forthwith quietly dispatched the secretary at war to the camp, with sealed orders, to be opened after his arrival. The

orders instructed the secretary to furlough the whole army, by companies, till it was reduced to six hundred men, and to march them to certain points on the sea-coast. The furloughs were unlimited, but they were liable to be terminated at any time, by proclamation; and if those furloughed did not report themselves in thirty days after the proclamation, they were to be considered and treated as deserters. He could not break up the army outright, for he had nothing to pay them off with; and the danger of such an exercise of power had been too manifest in the attempt of General Washington to disband the army of the North, to let Houston fall into the same error; and yet so entirely had all subordination been broken down, so daring were the scenes of violence committed by the desperate and lawless bands of the camp, that he determined to get rid of the evil. When the various companies reached their destination, they made the best of their way to the United States, fearing they would not get out of the country before the proclamation was issued, and the result obtained was the very purpose and aim of the president, in this admirably-conceived and well executed stroke of policy. No sooner was the issue known, than the country felt that it had been saved from the greatest danger that had yet assailed it.

The early Congresses of Texas seemed not to feel that they had a country to legislate for, but rather acted as though their mission was to enrich their members by plundering the people. During Houston's two terms of office, he acted always on his own responsibility, holding but few cabinet councils, and vetoed no less than sixty-five bills, thus preventing the country from being absolutely ruined. The first land law of Texas, vetoed by him, but adopted over his head, opened the door to all sorts of fraud, and is to this day a fruitful source of litigation about land titles. He vetoed a paper money bill, but the same bill was passed under his successor's administration, and the ruinous result, predicted by Houston, was fully realized. At the close of his first administration, he left the government perfectly organized, with officers of ability, integrity, and economy, in every branch of the public service—Texas was at peace with the Indian tribes, and had a growing commerce with her enemy over the Rio Grande—the nation owed a million and a half of dollars, and its paper money, of which $600,000 were out, was at par—the proposition of annexation to the United States had been withdrawn—the frontier counties were filling up, and the tide of immigration was setting in from abroad—justice was begun to be administerd with even hand, where before confusion and mob law prevailed—and the arts of peace and industry were everywhere taking the place of military indolence and the hunter's unproductive life. Had the constitution permitted, he would have been re-elected by acclamation, but the country was to lose his services to learn their value; and the sudden death of the excellent gentleman who was the administration candidate, just before the election, gave the presidency to General Lamar, who was the head of the opposition.

The incoming dynasty attempted to prevent Houston from delivering a valedictory address; but when the assembled masses became aware of this insult to the hero of San Jacinto, they unceremoniously set aside the ceremonies of the inauguration of the new president, and listened

for three hours to the old president's speech, which swayed to and fro the dense thousands, as the strong wind sweeps over the forest. President Lamar's administration was diametrically opposite to that of President Houston's, in every important particular. The extermination of the Indians, deadly hostility to annexation, a national bank, a splendid government, removal of the capital to Austin and the erection of expensive national buildings, an expedition to reduce Santa Fe and the whole northwest country, extensive issues of government paper money, negotiations with Arista to unite the northern departments of Mexico with Texas, a great national road, negotiations with Mexico for peace, alliance with Mexico by the marriage of the president with the daughter of Gomez Farias, one of the public functionaries of that country, violation of the treaty of Texas with the Cherokees, and a sanguinary war against them, increase of the army and navy, negotiations for a union with Yucatan, quadrupling the national debt by extravagant and useless expenditures, breaking down the postal system of the country, profligacy in high places—such were some of the doctrines and measures of this unfortunate administration, unfortunate to the actors in it, and doubly so to the country. Things had even been worse if Houston had not been in Congress during those two years of misrule; for on one occasion he absolutely prevented a dissolution of the government, and thus saved the country a third time by his timely counsel and burning appeal to the members of Congress, which was on the eve of adjourning *sine die*, utterly despairing of its ability to legislate for the nation, and to carry on the government in the midst of the corruption and ruin that prevailed on every side. The three years of misrule and mal-administration drew to a close, and the people, with almost one acclaim, summoned Houston to the presidency a second time, and he came to the rescue once more.

He was inaugurated on the 13th of December, 1841, and the first greeting he had in office was the news of the fatal Santa Fe expedition; but he immediately set to work to redeem the unfortunate victims of his predecessor's policy. Under his recommendation, Congress suspended the payment of the old debt, that had been increased from one and a-half millions to twelve millions, authorized the issue of $200,000 in paper, the redemption of which was guarantied by the hypothecation of the revenue from customs, and by the help of this new system of currency, he was enabled to revive, in some measure, the ability of the government to discharge its daily obligations. Calling to his assistance gentlemen of acknowledged ability and purity of purpose, on whom he could rely, he marked out his policy, and went calmly and firmly to its execution, regardless of the opposition, which was composed of the elements of the late administration. He re-opened negotiations at Washington for annexation, determined, if he failed again in this application, to seek the recognition of Texan independence by Mexico, and failing in that, to enter into some treaty or alliance with France or England, which would secure the peace of Texas, extend her commerce, and permit her to move forward on the high road to prosperity. His next movement was to recall the navy, which had been sent to aid a revolt in Yucatan. In the exposed situation of the country, when an irruption of Indians or an invasion of Mexicans, which

had been provoked by the policy of the late administration, was reasonably apprehended, Houston asked Congress for subsidies, but it adjourned without granting them, and shortly after Vasquez crossed the Rio Grande with a Mexican force. The utmost alarm prevailed, the opposition to the president suddenly ceased, and the country looked for another invasion, while the president, not believing that the invaders would make any progress then—they soon retreated—appealed to the American people for aid, in a future emergency, and sent agents to this country to procure volunteers and receive contributions; but as Texas had no money in her treasury, he required that no volunteers would be received unless perfectly armed and provisioned for a campaign of six months. This appeal brought men enough without arms or provisions, but no money; and the president called Congress together to devise means for the national defence, whereupon they met, voted him ten millions of acres of the public domain to carry on the campaign with, and invested him with dictatorial powers—the last man in the world to offer such authority to. He vetoed this extraordinary bill, in the midst of a storm of opposition to him, more violent than any that had hitherto assailed his devoted head; but when he demonstrated that the bill was utterly insufficient to provide the means for a campaign against Mexico, and frankly told the country that he never would accept dictatorial powers to fight against the same powers in a neighboring state, the storm against him blew over, and the people glorified him more than ever. An open rebellion against the laws of the country had, in the meantime, been put down, economy had been restored to the administration of affairs, and the public credit began to feel the effect of restored confidence, and Houston's wise measures of policy. The Santa Fe prisoners were liberated in consequence of the earnest and never-tiring negotiations of the president, and a powerful and successful appeal was addressed to the great Christian powers of the earth which had acknowledged the independence of Texas, to interpose with Mexico, and induce her to put an end to her harrassments, pillage, and robbery of the western borders of the new republic.

BIOGRAPHICAL SKETCHES

OF

DISTINGUISHED

AMERICAN LAWYERS.

HON. WALKER REID,

OF KENTUCKY.

There is no profession in which energy and talents are so certain to obtain their just reward, as the law; and there is none in which the absence of those qualities is so soon and inevitably followed by failure and disappointment. In the language of one who had gloriously triumphed over its difficulties, and achieved its most splendid prizes: "Its study is abstruse and dangerous, its occasion sudden, and its practice dangerous." In the words of another great master: "There is no profession which demands for its successful prosecution so large an amount of personal qualification—of ability to encounter with difficulty, as the Bar."

Genius, it has been said, is sure to find its level. Upon no other theatre of human action is this so universally true as at the bar. The Law is a stern mother, and deals with her children as the natives of a certain tribe of savages are reported to treat their infants, who, at their birth, are cast naked into the flood to buffet with its currents;—those who can swim are cherished and caressed; those who cannot, perish without sympathy, and are remembered no more. This fable is a true type of that glorious profession, which has probably numbered among its members more men of brilliant genius and commanding talents, than either the Church, the Cabinet, or the Army, and is second in the glory of its sons to Literature alone; a profession which, in the days of heathen antiquity, was illustrated by the matchless eloquence and incorruptible patriotism of a Demosthenes, and the vast and profound learning and versatile genius of a Cicero, which enlightened the ignorance and gloom of the dark ages with the torch of a Bracton and a Fleta, and reared upon the blood-stained wrecks of the ancient world, amid the clang and clash of barbarian hordes, the temple of Order and Justice, in symmetry and beauty; which, in more modern times, could boast the gigantic labors and unequalled attainments of a Coke, a Bacon with his Jove-like intellect, a Hale with his spotless purity of soul and incorruptible integrity—a Mansfield with his plastic genius, moulding with heterogeneous materials a noble system of jurisprudence

unrivalled for its beauty, simplicity, and consistency—and a MARSHALL and STORY to reflect back, with increased splendor from these "transatlantic" shores, the light they borrowed from the torch of Europe.

We have characterised the discipline of the BAR as Spartan in its severity and unsparing sternness. There is no profession which extends so little indulgence to the frailty of its disciples, and in which weakness and incompetency are so certain to be exposed and punished. FORTUNE, so omnipotent in military operations—and PATRONAGE, so powerful in literature, in the Church, and in the Cabinet, have, literally, no agency in the success or failure of the lawyer. He must be the architect of his own fortunes, the arbiter of his own destiny. BRAIN and NERVE are the only *friends* which can speed him onward in his rugged pathway. Almost as completely as the wild Bedouin in the bosom of his solitary, trackless deserts, he is, perforce, *self-dependent.* And happy is it for him if, within himself, he can find the resources equal to the stern ordeal. How many have we known "who perished in their pride" after a brief struggle, leaving the field of battle, to die "unpitied and unknown." We have seen the career of the young candidate for professional success, commenced with the first grand requisite of all excellence worth achieving—ENTHUSIASM—troops of friends, promising talents, high notions of moral honor, and a warm devotedness to the calling "which elevates *units* to a pinnacle formed by the dry bones of *hundreds* slain." We have seen that enthusiasm frozen by disappointment—that honor corrupted by the contamination of dissipation—the hopes of those friends changed to sorrow and chagrin—that devotedness to THE CAUSE fade away into a sickly despair. The iron power of *endurance* and the unflagging *energy*, without which eminent success at the bar is never attained, are given to but few among hundreds.

If to have triumphed over difficulties, before which so many proud spirits and bright intellects have succumbed; if by the unaided power of his own energy and talents to have risen from a station of comparative humility to the most honorable position a man can fill in the system of modern society; if to have mastered a science as difficult and complex as the law so perfectly as to have passed successfully through every professional and official ordeal; to have been thrice clothed with the judicial ermine by executive appointment and by popular election, under a government and among a people distinguished for civilization and intelligence; to have acquitted himself of the delicate responsibilities of this arduous and important office without reproach, in a manner eminently satisfactory to those from whom his power was derived and those upon whose multifarious transactions it was exercised—if all this is sufficient to entitle one to a place in the respectful remembrance of posterity—a niche in the temple of Fame, that high honor will, without hesitation, be conceded to the subject of this brief memoir.

WALKER REID, the present Circuit Judge of the Ninth Judicial District of Kentucky, was born in Fairfax (then Loudon) county, Virginia, and is now in the sixty-ninth year of his age. He was the eldest of five brothers, sons of John Reid and Nancy Botts; of these brothers three alone are now living—the subject of this sketch, Col. John Reid of Fairfax, and Dr. Mark Reid of Rappahannock county, Virginia.

The father of Judge Reid was a practical farmer, but a man of much general intelligence and greatly beloved for his social qualities. His children all received a good English education, though at that day the advantages enjoyed by the most favored in respect to educational facilities were far behind those which are at present within the reach of almost all. We have understood that Walker Reid, in his school-boy days, exhibited a remarkable taste and aptitude for the Mathematics, in the various branches of which science he attained considerable proficiency. But, like many of the most distinguished public men of this country, he has been more indebted to his energy and *native* talent for the success which has crowned his life, than to the hot-house culture of his intellect in schools and colleges.

At an early age Judge Reid entered the office of the Clerk of the Court in Loudon county, Virginia, and it was here that he first conceived the idea of devoting himself to the profession of the law. It was in a similar situation, and within a few years before the same period, that young Henry Clay, in a neighboring county, was introduced to a practical acquaintance with the profession in which he afterwards achieved such thrilling triumphs, and upon which he has shed so much glory. For one destined to the bar there can be no better preparatory school than a well-ordered Clerk's office. The familiarity with *forms* and *practice* thus acquired is invaluable, and cannot be so perfectly learned in any other manner. Much of the difficulty and embarrassment which besets the steps of the young practitioner, originates in an ignorance of things which cannot be learned in books, and which can be effectually taught only by observation and experience. Mr. Clay, Mr. Webster, and many of the most eminent members of the American Bar, commenced their career in the Clerk's office.

In 1803 Judge Reid came to Kentucky and entered the office of the Clerk of Montgomery county. He remained in this office till 1805, acquiring, in the mean time, an accurate and familiar knowledge of the forms of business, conveyancing, practice and pleading, and a perfect mastery of the whole routine of duties in the office. At the same time he devoted his leisure hours to a diligent study of the elementary works on law, which profession he had determined to adopt as the business of his life. Possessing great energy of character (a trait which distinguishes him now in his old age) his progress was rapid. He frequently refers to this period of his life with much satisfaction. Buoyant with youthful energy and hope, self-reliant and bold, present difficulties were forgotten in the anticipation of future success, and the horoscope of his destiny gleamed before his young eyes in golden colors. At this period of his life he received from the late Micajah Harrison and William Littel, Reporter to the Court of Appeals of Kentucky, much kind assistance, in the way of advice and instruction in the prosecution of his studies—favors which he has never forgotten, and of which he still speaks in terms of gratitude and affection.

In 1805 he was solicited by the late Francis Taylor, then Clerk of the Mason Circuit, to take charge of the office as his deputy, a proposition which he accepted. In 1808 he married Miss Anna Tebbs, a young lady who, like himself, was a native of Virginia. He still continued

to discharge his duties as Clerk to obtain the means of subsistence for his family.

He had, in the meantime, been appointed Clerk of the Circuit and County Courts in the new county of Lewis, then recently created, but, finding the fees inadequate to his necessities, he soon resigned.

About the year 1809 he was admitted to the Bar in Mason county, and began to practice law. The Mason Bar, at that time, was quite distinguished for the ability of its members, second, in that respect, to the Lexington Bar alone. Alexander K. Marshall, a brother of the great Chief Justice, William McClung, subsequently a Judge, Adam Beatty, since also a Judge, John Chambers, for many years a distinguished Member of Congress, and subsequently Governor of Iowa Territory, among others, formed an array of talent and attainment which would have shed lustre upon any bar, and proved formidable to any aspirant.

Judge Reid's success as a lawyer was at first but moderate, but by unwearied attention to business his income proved quite equal to his necessities and his practice gradually increased.

In 1812 he joined a volunteer company, which was raised for the relief of Gen. Hull, and was elected its lieutenant. The late Charles Ward, an early pioneer, and for many years High Sheriff of Mason county, was its captain. In this campaign Judge Reid saw some hard service, but his company was not present in any engagement. At the close of the campaign he returned to Washington and re-commenced the practice of his profession.

He was elected and served several sessions in the General Assembly of Kentucky, and, having thus acquired a taste for politics, became a candidate for Congress—but was so badly beaten by his opponent, Gov. Metcalfe, that he immediately renounced all political aspirations, and returned, with redoubled energy, to the practice of the law. Judge Reid, there is no doubt, now regards this defeat, which, at the time, was a source of some chagrin, as a "blessing in disguise;" since, by his unremitting devotion to his profession, he finds himself at the advanced age of sixty-eight years the possessor of a competent fortune, and in the quiet occupation of an office the most honorable that a citizen can be called to discharge, and with a constitution unbroken by the harassing cares of political ambition, able to enjoy the tranquil evening of his busy life, with no cloud to obscure the brightness of his setting sun. Had success allured him on to follow the *ignis fatuus* of political ambition, it is highly probable that his situation now would be represented by a very different picture, and he would have furnished another example of the folly of exchanging the certain rewards, the solid honors, and the quiet happiness of professional industry, for the perilous contingences of the political arena.

Judge Reid continued the practice of the law with indefatigable energy and eminent success until the year 1833, when he was appointed by Governor Breathitt Circuit Judge of the First Judicial District. Upon a re-organization of the Courts he was re-appointed by Governor Wickliffe, and continued to hold the office until the adoption of the *new* Constitution of Kentucky, in 1851.

Under this Constitution the number of Judges was reduced to twelve. The wealthy and populous counties of Bourbon, Nicholas, Harrison,

and Scott, were added to Judge Reid's former district, consisting of the counties of Mason, Bracken, Pendleton, and Campbell. In the district as thus re-constituted, he became a candidate before the *people* for *election* to the office which he had so long held by Executive appointment. His opponents were the Hon. Richard Hawes of Bourbon, and Mr. James Davies of Scott, both lawyers of distinction, and the former, for many years, the Representative of the Fayette district in Congress. Probably a more marked or gratifying eulogium could not have been pronounced upon Judge Reid's official career than was expressed by the very decided majority he obtained over his distinguished opponents. In his own county of Mason, an old district, where, as lawyer and Judge he had lived for near half a century under the eye of the people, a master proverbially censorious and hard to please, his majority was unprecedently large—a tribute to the inoffensiveness of his life and the general propriety of his public and private course, which furnishes the most honorable testimonial to his worth as a man and his ability and uprightness as a Judge.

Judge Reid, notwithstanding his advanced age, now verging on "three score years and ten," presides over the largest and most populous district in the State. He is constantly employed during near forty weeks in the year; and though the immense labor which his duties thus entail, would seem to be too great for the powers of even a younger man, the extraordinary energy of his character enables him to despatch the business of his Circuit with apparently but slight inconvenience.

In his politics, Judge Reid is a democrat. But though at one period of his life a violent partizan, he has since his elevation to the bench scrupulously abstained from any participation in political strife, only giving a quiet vote at the polls for the man and the principles of his choice. He is a devoted—almost a fanatical, lover of the *Union;* and during the pendency of the slavery and territorial disputes of the year 1849-50, presided over a large mass meeting of the people of Mason county, when he made a speech replete with eloquence and patriotism.

By his marriage Judge Reid became the father of four sons and three daughters. His sons all studied law, and three of them engaged in the practice, but died young. His youngest son, Col. John Reid, now about thirty years of age, although a graduate of the Law-School, preferred the free and independent life of a farmer, to professional drudgery, even though accompanied by professional honors, and lives with his father and mother upon a farm, being the only living child. The daughters are all dead.

We have said that at the bar, Judge Reid was eminently successful. This success was to be ascribed to his thorough knowledge of his business. He always understood his causes, perfectly and accurately. He is a man of great quickness of perception, and a consummate judge of men. His tact in the selection of a jury, and the examination of a witness, always gave him great advantages in the management of his causes. He is a man of untiring industry, almost irresistible energy, and great personal intrepidity—qualities which are more demanded in the legal profession, than in any other pursuit of civil life. His knowledge of the law is extensive and accurate.

His eloquence was not of that loud, boisterous and declamatory kind so frequent at the bar—but which, like certain descriptions of ordnance, makes more noise than execution—and frighten more than they hurt. His style of address was almost conversational in its simplicity, its familiarity, and unpretending clearness. He glided at once into the confidence of the jury and the Court, and hardly ever failed to impress upon their minds, firmly, the view which he desired them to take of the cause.

As a Judge, his decisions have stood the test of revision by the Court of Appeals, as well as those of any other Circuit Judge in the State. His course on the bench has been, and continues to be, marked by great firmness, promptitude and decision. At the same time he is distinguished for the urbanity and courtesy which characterizes his demeanor to the bar.

The office of Judge is one which tests and shows the *metal* of which human nature is composed, probably more completely than any other position. Its duties are responsible, delicate, and difficult. The strength and the frailty that make up the mingled web and woof of a man's character, have here a better opportunity to exhibit themselves than any where else. His power, within his sphere, is supreme. Great temptations to swerve from the onward path beset him upon every side. If he has prejudices, and who has not? they are continually knocking at his heart for admission. The lives and the fortunes of men often hang suspended upon the strength and purity of one frail human soul, which reels and staggers upon its firm centre amid the conflict of contending passions, like a ship, tossed by the winds and waves. It is a terrible—an awful responsibility, to be entrusted to any man. And great and eternal honor is surely his due, who holds on boldly and faithfully in the narrow path of justice, true to himself and to his high office, unawed by fear, unseduced by affection, with no guide but Truth, and no prompter but his Conscience.

Judge Reid is about five feet nine inches high, well formed, rather corpulent, but a man of a very commanding presence. His features are high and aquiline, finely chiselled, and calculated to arrest and rivet the attention of the observer. The accompanying portrait, engraved from a daguerreotype, is a likeness.

HON. THOMAS A. MARSHALL,

OF KENTUCKY.

Thomas A. Marshall is at this time one of the Judges of the Supreme Court of Appeals of the Commonwealth of Kentucky. He was born in the county of Woodford, in that commonwealth, near the little village of Versailles, January 15th, 1794. He is the son of Humphrey and Mary Marshall, and through his mother, the nephew of John Marshall, the celebrated Chief Justice of the Supreme Court of the United States. He resided in his father's house, with the exception of

a brief interval, till his eighteenth year. His earlier education was guided by his mother, a lady of uncommon understanding and uncommon accomplishments. While he prosecuted extensively the study of history, and the standard authors in our own language, under her able tuition, he was provided with the best teachers the country afforded at that time of the Greek and Latin, and such branches of the mathematics as are usually taught at schools. Among his instructors in the languages, the principal were Joshua Fry, and Doctor Priestly, so celebrated in his day as a scholar and man of science. In his eighteenth year he was placed by his father at the College in Lexington, Kentucky. He was soon removed to Yale, where he graduated with distinction in 1815. In November, 1816, he obtained license to practice law. He was married the same month, being in his twenty-third year, to Miss Eliza Price, of Lexington, Kentucky, a niece of Mrs. Henry Clay. Judge Marshall commenced the practice of law in Frankfort, in the spring of 1817, but removed to Paris, in the county of Bourbon, in the fall of 1819, where he remained till 1836, when he removed to Lexington, his present residence. He made his first public appearance in politics in February, 1825, at a large public meeting in Paris. On that occasion he proposed and advocated a series of resolutions, which were adopted, condemning what is called and generally known as the reorganising act.

By this act the Legislature had attempted by the vote of a majority to displace the Judges of the Court of Appeals on account of their decision against the two years replevin law. In 1827 he was returned from the county of Bourbon to the House of Representatives of the General Assembly of Kentucky.

In the spring of 1828 he was put in nomination with a number of others before an anti-Jackson Convention, assembled to select a candidate for Congress. He received a majority of the votes in a single trial against the gentleman who was afterwards selected. The convention made a rule however, that he should be run singly against each of the candidates in succession. The friends of the gentleman whom he had just defeated, united with those of the next gentleman in nomination, and in this way Mr. Marshall was defeated. Mr. Marshall became again a candidate that year, to represent the county of Bourbon, in the Legislature, and was again elected. The canvass was a very animated one. Mr. Marshall encountered two speakers selected by the Jackson party to meet him in debate, as he also did the Jackson candidate for Congress. His own defeat before the convention did not in the least cool his zeal or cramp his efforts in behalf of Mr. Chambers, the gentleman whom the convention had selected. In 1829 he was nominated by a large portion of the people of his own county, as a candidate for Congress, and in obedience to their wishes, went through the district. But there being two other gentlemen of his party, who had declared themselves candidates, Mr. Marshall did not choose to be the cause of farther division, and voluntarily withdrew. In that year, the Jackson candidate was elected. For the next term in 1831, Mr. Marshall ran for Congress against the same gentleman, and defeated him. In 1833, he was re-elected over a gentleman of his own party. His second term closing in March, 1835, he would probably have

again became a candidate, but about the 18th of that month, he received from Governor Morehead a *pro tem* commission as Judge of the Court of Appeals of Kentucky, and immediately entered on the duties of that office, which he has continued to hold under various commissions. At the session of the Legislature in 1835–6, he was nominated to the Senate, confirmed and again commissioned. At the session of 1836–7, the Judges having generally resigned in consequence of a prospective increase of salaries, he was again nominated by Governor Clarke, confirmed and commissioned. In 1849, Chief Justice Ewing having resigned, Judge Marshall was in the recess of the Legislature commissioned Chief Justice *pro tem*, by Governor Owsley, and accepted. At the ensuing session he was nominated to that office, confirmed, and again commissioned. In 1849, the convention called by the State framed a new Constitution, by which all the Judges are made elective by the people. By this new instrument of government, the State was to be laid off into four Judicial districts for the Appellate Courts, and one Judge to be elected by the qualified voters in each. The friends of Judge Marshall urged him to become a candidate. He consented with reluctant diffidence. His habits of life for years had been so secluded—he had mingled so little with the great body of the people—the nature of his duties, arduous and important as they had been, had so little of a popular complexion, and had brought him so little into contact with the popular feelings, and before the popular eye, that he deemed it scarcely possible that he could even be known to the great body of the people. He was mistaken. The gentleman who ran against him had been on the Circuit Court bench, comprising several of the counties of the new Appellate district. He was a man of talent and high character. Judge Marshall in May, 1851, was elected by the people, as Judge of the Court of Appeals, by an overwhelming majority of the votes cast. In his native county of Woodford, his majority was upwards of seven hundred, out of an entire vote of less than one thousand. Having held the post by the nomination of various Governors, sanctioned by various Senates, through a period of sixteen years, in 1851, the seal of the popular approbation was stamped upon his life and labors.

After his election he continued, at the request of the other Judges, to preside in the Court until the 9th July, when under the mandate of the Constitution, the Judges drew for terms and places.

Judge Marshall drew the term of five years, which gave him the third place on the bench. The close of the last term of the Court completed seventeen years, and thirty-four terms, during which Judge Marshall has been one of the Judges, and for four years of the time Chief Justice of the Court. Within this period the cases reported occupy nineteen volumes, of from five to six hundred pages each, and a great many cases involving great labor in the examination have not been reported at all, between five and six hundred cases being decided each year. Of this great labor he has performed one-third part. During the period embracing his official life he has not been absent from the bench as many days as it includes years, and of those few days of absence, a majority were on account of his own indisposition, and three days during which he was attending his brother's funeral at Louisville. The numerous opinions prepared and delivered by Judge Marshall lie

scattered through nineteen volumes of Reports. They embrace some of the most important questions in the laws. They are of high authority with the profession in this State, not more on account of the legal supremacy of the Court, than the intrinsic excellence of the opinions. The Constitution of the United States, and of the State of Kentucky, have been frequently under his review in cases affecting large interests and important rights. The power of the State over the importation of slaves—the power to tax the corporations of other States doing business in this State—the compatibility of offices under the State government with offices under the general government—the effect of sending slaves temporarily into a State were slavery is not recognised upon their condition when returned—local taxation by legislative authority, &c., &c., are all questions of the gravest importance, and of the greatest difficulty. Judge Marshall has met them all with undisputed fairness and unquestioned ability. The most elaborate opinions he has delivered, are upon the question of Church property in the case of Gibson vs. Armstrong, 7 B. Monroe, 480, and of local taxation by authority of the Legislature in the late case of Slack and others against Maysville & Lexington Railroad Co., not yet reported, though it has been published in the newspapers.

It is a difficult and delicate task to draw the character of a living man. Biography should not be written till death has placed the subject beyond the reach of change, when praise can no longer be considered as adulation, nor the just tribute to great talents or great worth excite the envy of the living. Of Judge Marshall, however, it may be said without danger of offending his cotemporaries, that he unites in himself most of the qualities necessary to the official character which he holds. Spotless purity of life, grave yet kind and gentle manners, unwearied patience of application, a clear, vigorous and healthy understanding, and a passionless judgment, which seeks the truth for its own sake.

His own modesty would shrink from a direct comparison with his immortal Uncle, as fulsome. Yet does he strongly resemble him in very many points of character and understanding. He has been thought by many to be exceedingly like him in features and countenance. He has the same benevolence, the same charity for the faults and misfortunes of others, the same unpretending simplicity of manners. Human nature cannot be more entirely exempt from affectation and arrogance, than it is found to be in this amiable man. He was born to expectations of great wealth, which lasted till some years after his manhood. His father held vast landed estates in Kentucky, the value of which at this time it would be difficult to estimate. Misfortunes of which Judge Thomas A. Marshall was not in the most remote degree the cause swept it all away, and Mr. H. Marshall died in his son's house almost in absolute poverty. Judge Marshall's natural taste and temper, gentle and refined as they were, inclined him in early life, to elegant letters and the fine arts. He was an accomplished classical scholar, which is sufficiently apparent from the pure, simple and unaffected diction of his written opinions.

In early life he cultivated music and poetry. As a speaker his argument was always clear, his diction pure as Cicero, and his manner

agreeable and persuasive. The cataract roar of popular assemblies, however, was never agreeable to him. When he was appointed to the bench many of his friends, who knew the force of his talents, as well as the delicacy of his taste, feared that his attachment to elegant leisure was so deep rooted in his nature and in his habits, that he would turn with disgust from the arid and thorny and laborious duties of his office. They mistook him. Not so much from ambition as from the principle he holds, that it is disgraceful to fail in patient application to duties voluntarily undertaken, he buckled to the work set before him with a hardy and patient industry, as though he had never written a line in verse, or swept the strings of the violin, or been born the inheritor of many broad acres of the most fertile land in Kentucky. Judge Marshall by seventeen years of patient application, has won his way to the entire confidence of the bar. He has done so without other appliances than the discharge of his duty. During the canvass, certain efforts, (they were but efforts,) were made to assail his legal reputation. The bar of the Court of Appeals at Frankfort spontaneously stepped forward, and vindicated his reputation at every point. His election proves how strong the impression which his modest, blameless, yet laborious and useful life has made upon the true, deep heart of the people. The annexed engraving will give a more perfect idea of his countenance than any words. In person he is tall and extremely delicate. His height is about five feet eleven, his weight only 135 pounds. His manners are graceful and pleasing, though marked with the modest diffidence of a boy. His countenance though grave is not at all gloomy. Gentleness and affection, a placid benevolence of expression, characterise the whole physical man—countenance, form, even to the walk. Judge Marshall is fifty-eight years of age. Although his constitution would seem delicate, he enjoys excellent health. Perfect regularity and temperance have preserved him sound amidst application and confinement that might have crushed a stronger man. In the intervals of his Court he lectures on law, being one of the professors in the Transylvania law school. Twenty years will only bring him to the age of his uncle when he died. May God spare his life. Increase of age will surely bring to him increase of honor. The base of his reputation is broad and deep. There has been no flare about it, no struggle for it, other than is applied in the patient unostentatious discharge of duty. His unobtrusive nature challenges for himself no higher praise than that which follows patience and application. Others will judge differently, and assign him that place among the distinguished men of his country to which his great talents, no less than his spotless character, entitle him.

HON. ANDREW T. JUDSON,

OF CONNECTICUT.

Andrew Thompson Judson, the present Judge of the District Court of the United States for the District of Connecticut, is a descendant from the family of William Judson, who emigrated to this country from Yorkshire, England, in 1634, and were the first settlers of the town of Stratford, Fairfield county, Connecticut. After remaining in Stratford several years William Judson removed to New Haven, where he was employed for a considerable period in obtaining funds to educate indigent young men at Cambridge College. He there buried his first wife, the mother of his children, and married a second and died at an advanced age.

Rev. Andrew Judson, the father of Andrew Thompson Judson, was fitted for college by the Rev. Eleazer Wheelock, D. D., the founder of Dartmouth College, and was graduated at that institution in 1775. He belonged to the fifth graduating class, which numbered only eleven members, all of whom were from Connecticut. Soon after his graduation he commenced the study of Divinity, and, on the first day of December, 1778, was ordained over the third church and society in Ashford, Connecticut, as their first minister. He subsequently married the daughter of a respectable farmer of his parish, Miss Elizabeth Work, by whom he had three sons, and died in the year 1805.

The subject of this notice was the third son of these parents. He was born at Ashford on the 29th of November, 1784. His education was obtained at the common school and under instructions received from his father and from an elder brother. That brother was a graduate of Providence College and an able and eloquent divine.

With these preparations Andrew T. Judson entered the office of the late Hon. Sylvester Gilbert, at Hebron, as a student at law; and, having completed his legal studies, was admitted to the bar in 1806. During the same year he removed to Montpelier, in the State of Vermont, and was admitted to the practice of law in that State. But that place being then new and but sparsely populated, offered few inducements to the young practitioner to remain there. He therefore returned to his native town and there commenced business. On the 1st of January, 1809, he removed from Ashford to the place of his present residence, the town of Canterbury, in Windham county. At that time some of the most distinguished lawyers in Connecticut were in full practice at the bar of that county. Among them were Asa Spalding, Calvin Goddard, Sylvanus Backus, William Perkins, Jabez Clark, James Lanman, William Pitt Cleveland, and Joseph Eaton.

Such was the field in which Mr. Judson commenced, and for many years successfully prosecuted his professional labors.

In 1813 he was elected a representative of the town of Canterbury, in the General Assembly of Connecticut. Being then young and inexperienced in matters of legislation, he made no efforts at distinction, but contented himself with discharging, in a quiet manner, the duties imposed upon him by his constituents.

In 1816 a new political party, called the Tolerationists, was formed in Connecticut. Its object was to secure the establishment of a Constitution based upon liberal principles, and thus dissolve the union which practically existed between "Church and State," and lay the foundation for a system of equal and impartial legislation. Mr. Judson was one of the most active and efficient members of that party. After a short but severe struggle the Tolerationists, aided by the Democratic party, succeeded in bringing about a political revolution in the State, and in accomplishing the purposes of their organization. A new order of things was then established. The charter granted by King Charles II., in 1662, which had constituted the basis of all previous legislation, was set aside, and a Constitution, adapted to the situation, circumstances, and wants of the people was formed and adopted. Under that Constitution the several departments of the Government were organized in 1819, since which time it has continued, with a few important amendments, to be the fundamental law of the State.

In December, 1819, the office of State's Attorney in Windham county, which had been held for several years by Hon. William Perkins, one of the ablest lawyers of his time, was made vacant by his death. Mr. Judson was appointed to supply the vacancy. He immediately entered upon the duties of the appointment, and so ably and satisfactorily did he discharge them that he was continued in the office under biennial appointments from both political parties, until he voluntarily resigned it in 1833. During that period the duties of the office, which are at all times arduous and responsible, were rendered unusually so by the extraordinary number of important State cases, several of them capital, which were presented and tried. Among the capital cases there was one which created the most intense excitement in the community. It was the case of Oliver Watkins for the murder of his wife. On receiving intelligence of the murder, Mr. Judson repaired to the place where it was committed. He arrived there before the funeral obsequies of the murdered woman were concluded, but not until her remains had been deposited in the place of sepulchre. By his direction the body was disinterred and the husband immediately arrested. An able and skillful surgeon was then sent for who examined the body, and found upon it the marks of violence which had been used to accomplish the work of death. The case was tried in October, 1829, and the jury found the prisoner guilty. Mr. Judson conducted the prosecution, and Hon. Calvin Goddard, one of the ablest and most eloquent advocates in the State, was of counsel for the defence. The proceedings which followed were of a most extraordinary character. The prisoner and his friends were anxious for a new trial—but, instead of seeking for it through the judicial tribunals, which, under the Constitution, had sole jurisdiction in the matter, they preferred a petition for the purpose to the General Assembly. The Assembly did not grant the prayer of the petition, but, after an *ex parte* hearing, passed a resolution, directing two Judges of the Superior Court to hold a special term on the 26th of July, 1830, for the purpose of trying and deciding it. The result was, a new trial ordered. The case was then continued from term to term until October, 1830, when it was brought to its second trial before the

Superior Court, and, notwithstanding all the embarrassments arising out of the delay, again resulted in a verdict of guilty, and the prisoner was executed.

Some time previous to the State election in 1822, the question of removing the county-seat of Windham county from the town of Windham was strongly agitated, and occasioned much excitement and bad feeling among the people living in that section of the State. It was a blow aimed at the prosperity of that ancient town which was seriously felt. The interests as well as feelings of its inhabitants were opposed to the change. Mr. Judson's wife was the daughter of one of the citizens of that town who was deeply interested to defeat the proposed measure. Canterbury took a decided stand in favor of the measure. Notwithstanding this conflict of feeling and of interest, Mr. Judson was put in nomination by his friends for a seat in the House of Representatives, and triumphantly elected. On taking his seat he was chosen Clerk of the House, in which office he served during the session.

In the course of the session of that year resolutions were introduced directing an inquiry to be instituted in relation to the amount of funds which had been granted by the State to Yale College, and in relation to the rules and regulations employed by the faculty for the government of that institution. The real object of the resolutions was to excite, in the public mind, a feeling of hostility or jealousy towards the college and thus impair its usefulness. They were referred to a joint committee, consisting of a Senator, who was *ex officio* Chairman, and eight Representatives, of whom Mr. Judson was one. After several hearings before the committee, the Chairman prepared a report, corresponding, generally, with the objects of the resolutions, and laid it before the committee for their approval. Its main features, however, were, in the opinion of Mr. Judson, so seriously objectionable and calculated to do so much injustice to the college, that he moved various amendments to it, changing its entire character and rendering it conformable to the real merits of the question. The amendments were adopted in committee by a majority of one. Mr. Judson was then designated by the committee to put the report as amended in proper form, which he did, and it was subsequently signed by the Chairman, submitted to the Assembly, and accepted.

In 1825 he was again a member, and served on some of the most important committees of the House. At the commencement of the session he was again chosen Clerk of the House, but declined the office. The subject of a final settlement of the controversy between Connecticut and Massachusetts, in regard to the boundary line between the two States, which had existed for a period of nearly eighty years, and which several commissions had vainly endeavored to adjust and settle, was brought before the Assembly during the session, and occupied a prominent place in its deliberations. A new commission was finally appointed, consisting of the late Lieut. Gov. Stoddard, Judge Warren, and Mr. Judson, who were joined by a similar commission on the part of Massachusetts, composed of the Hon. Elijah H. Mills, Hon. John Mills, and Hon. Leonard M. Parker. The joint commission met, and, after a short negotiation, succeeded in arranging all matters of contro-

versy between the parties, to the entire satisfaction of both governments.

In the Presidential contest of 1828, which was conducted with great earnestness on both sides, Mr. Judson took strong grounds in support of the claims of Gen. Jackson, while an overwhelming majority of the people of Connecticut, as well as the county and town in which Mr. J. resided, were favorable to the election of Mr. Adams. Notwithstanding this state of things he was returned a member of the General Assembly in the spring of 1829, and was the candidate of his political friends in that body for the office of Judge of the Supreme Court of Errors, but was beaten by his distinguished opponent, Hon. Thomas S. Williams, afterwards Chief Justice, by a majority of six votes. At that session he was placed at the head of the committee, on the part of the House of Representatives, to whom was referred the subject of the Tariff, (which was then agitating the whole country,) and drew up and submitted an elaborate report, sustaining the doctrine of protection to American labor. He was also a member of the committee who, at that session, reported the bill for an act dividing the State into districts for the choice of Senators. That bill was rendered necessary by an amendment of the Constitution adopted in the fall of 1828, increasing the number of Senators from twelve to twenty-one, and requiring their election by single districts instead of the State at large. The amendment referred to met a determined and powerful opposition, and Mr. Judson, fearing its defeat, appeared before the public in a series of able articles, published in the newspapers, between the time it was submitted by the Legislature and the day on which the people were to pass upon it. It was finally adopted by a small majority. But for the influence which these publications exerted, the measure, important as it was, would probably have been defeated.

The Senate of 1830 was to be chosen and organized according to the provisions of the amended Constitution. Mr. Judson was elected a member from the Thirteenth Senatorial District by a large majority. Many districts, at that election, returned their ablest and most distinguished men. Among them were Timothy Pitkin, Wm. W. Boardman, Noyes Darling, Charles Hawley, Reuben Booth, Henry M. Waite, Homer Boardman, Augustus Pettibone, Phineas Miner, and John Alsop. Soon after the session commenced a new set of rules was found to be necessary for the government of the Senate, and a committee, of which Mr. Judson was Chairman, was appointed to frame them. The committee, having attended to the duty assigned them, submitted their report, which was accepted; and, ever since that time, the rules drawn up by that committee have remained in force and governed the Senate in the transaction of its business. Mr. Judson was also Chairman of the committee on the revised criminal code, and carried through the bill according to the recommendations which he submitted. There was an unusual amount of important business brought before the Senate during that session, and the debates, in which Mr. Judson took a prominent part, were exceedingly able and interesting. Besides the ordinary business of the Senate, Mr. J. made daily reports of its proceedings, including the debates, in a manner more ample than has been done at any subsequent session.

In 1833, he was again elected a member of the House of Representatives. One of the most important measures of that session was the repeal of the act of 1816, appropriating, for the use and benefit of several religious denominations, a large portion of the money due to the State from the U. States on account of advancements made for military services in the war of 1812. That act had become a fruitful source of dissatisfaction and discontent throughout the State. Mr. Judson was one of the committee to whom the subject was referred, and in their behalf drew up and reported the necessary bills for the repeal of the obnoxious law, and for refunding the moneys to be received from the U. States to the treasuries of the several towns. Those bills having been passed, all further excitement on the subject ceased.

In the spring of 1835, he was elected a member of the 24th Congress, and took his seat at the commencement of the session in the month of December following. On the 6th of March, 1836, a vacancy was created in the office of Judge of the U. States for the District of Connecticut, by the death of Hon. Wm. Bristol, and Mr. Judson was nominated by President Jackson to fill it. The nomination was confirmed on the 4th of July following. Mr. Judson immediately resigned his seat in Congress and entered upon the duties of his new appointment. During the period which has since elapsed, he has discharged the judicial function with dignity, ability, and undeviating impartiality. Some of the causes which have been brought before him for adjudication have been highly important in their nature as well as their results. Among them, the libel of the L'Amistad, and the fifty-four Africans on board, may be mentioned. That cause was as novel as it was important, and during its progress through the Courts of the U. States it elicited much interest and feeling in every section of the Union. It was commenced in August, 1839, and the final decree, which was drawn up by the learned Judge himself, was passed in January, 1840. The cause was subsequently removed to the Supreme Court of the United States, where the decree of the District Court was affirmed.

In October, 1850, Judge Judson was designated by the Circuit Judge of the second Circuit to hold the Courts of the United States in the Southern District of New York during the illness of the distinguished Judge of that District, the Hon. Samuel R. Betts. In compliance with that appointment he held the three succeeding terms, and at the close of the appointment, the following testimonial was tendered him:

"Stated Term of the District Court of the United States for the Southern District of New York, held on Wednesday, January 8, 1851:

"Present—The Honorable Samuel R. Betts, District Judge.

"Upon the retirement of Judge Judson fromthe Bench, and the resumption of his seat by Judge Betts, the District Attorney rose and addressed the Court as follows:

"I cannot permit, Sir, the occasion to pass by without expressing, in the name of the Bar of this District, the sense they entertain of the appropriate and dignified manner in which his judicial duties have been performed by His Honor, Judge Judson, whether in the Circuit or District Court, while during the disability of the stated District Judge he has been called to preside on this Bench. I am sure, Sir, that I ex-

press but the general sentiment of my brethren when I say, that the whole course of His Honor, Judge Judson, in the discharge of his most onerous judicial functions, has been highly satisfactory to, and fully approved by the Bar; and they beg, through me, to express to the retiring Judge these their sentiments, and their cordial wishes for his continued health and prosperity."

Upon a suggestion from the Bar, the Court ordered the address to be entered on the minutes.

HON. BENJAMIN F. WADE,

OF OHIO.

The biography of those who have been successful in life, and especially of those who, from humble life, have been raised to eminence, is always interesting and instructive; by example it serves to direct, while it tends to encourage the desponding to renewed exertions. Like the officers of Napoleon's armies, the civil rulers of this country have chiefly arisen from the ranks—adventurers, who have, by merit, obtained place and honor unaided by wealth or family influence. The present chief magistrate of the nation was once an apprentice to a mechanical trade, and Henry Clay in youth was but the "Mill Boy of the Slashes." Among those to whom the term "self-made" is peculiarly applicable is the Hon. Benjamin F. Wade. His father, James Wade, was a native of Medford, in Middlesex county, Massachusetts. He had served an apprenticeship to a trade, but the troubles with the mother country were then impending, and he was among the first to enlist in the cause of freedom. He was at Concord, and participated in the battles of Lexington and Bunker Hill. He then went on board a privateer, was engaged in many stirring scenes—and having been captured was long a prisoner at Halifax. Afterwards, having been placed on board a prison-ship, he with his fellow-prisoners rose upon their keepers, obtained control of the ship—escaped the convoy, and regained their liberty. The history of his revolutionary adventures alone might fill a volume with interesting incidents of daring adventure. On the 15th of July, 1781, he was married to Mary Upham, at West Springfield, Massachusetts. She was the daughter of the Rev. Edward Upham, a clergyman of the Baptist denomination, learned and reputable in his profession. They were soon surrounded by a numerous offspring. The Hon. B. F. Wade, the subject of this sketch, was born on the 27th of October, A.D. 1800, at Feedinghills Parish in West Springfield, Massachusetts. He was the tenth child and the sixth son of that marriage. The father had come out of the Revolutionary War penniless, his trade was gone, and now poor and desponding, he obtained a scanty support for that numerous family from the cultivation of the soil. Frank, for so our subject was then, and is still, familiarly called, had very small opportunity for acquiring an education. During the summer his services were required at home, and in winter from two to three months of common school, such as common schools were then, was all that could be obtained. But those opportunities did not pass

unimproved—and his evenings were his own, and by the fireside was a mother prompt to aid and encourage him. That mother possessed all the virtues of her sex, and conspicuous among them were fortitude and patience under every difficulty. Of her it has been said, by one who knew her well, "A truer, gentler, nobler spirit than hers never beat in human bosom." She led by precept and example—she excited to emulation in virtue, and taught her children courage and perseverance. She was among the best of New England mothers, and they have no equals! Frank had become master of the ordinary branches that were then taught in common schools, when an old copy of Pike's arithmetic and an Algebra fell into his hands, and he gave himself no rest until these too were his familiars. While yet young, by the kindness of a relative, he obtained access to a good social and circulating library. Of this advantage he eagerly availed himself, and thus was acquired that fund of historic and philosophic lore, on which through life he has drawn at will; and to that library, next to that mother, is he indebted for the capacity which he has shown in the discharge of the various duties which have since devolved upon him. In the fall of 1821 the family removed to Andover, in the county of Ashtabula, Ohio, where his father and mother continued to reside until their deaths which occurred some years later. Frank, then 21 years of age, engaged himself during the winter in teaching school, and through the summer in chopping and clearing land, with no other design than to acquire a farm and pursue the calling to which he had been educated. In the fall of 1823 he assisted in driving a drove of cattle over the mountains, to the East, and remained near Albany, in the State of New York, about two years, mostly engaged in teaching school. In the fall of 1825 he again returned to Ohio, and in the spring afterwards, entered as a student the office of Whittlesey and Newton, a law firm composed of the Hon. E. Whittlesey and the Hon. E. Newton, at Canfield, Ohio. He possessed a vigorous constitution and an active mind, and from the time he made choice of the law as a profession he devoted his whole energies to the acquisition of its principles. In the month of August, 1828, he was admitted to the bar, at a term of the Supreme Court in Jefferson, Ashtabula county, where he immediately settled and commenced practice, and where he has since, and still resides. He who attempts to delineate the life and actions of a living statesman or jurist, can never hope to receive the meed of impartiality or perfect candor. And it is for this reason rather than from want of materials that the writer has preferred to pass hastily over this early and more private portion of the history of this now distinguished man, giving only a general outline of dates and facts, and leaving a fruitful field open, for some future explorer, who may, at a time which we trust is still far distant, without the charge of favoritism on the one hand, or of enmity on the other, fill up the chasm here left vacant. From this period his character, from the wider sphere in which he acted, becoming to some extent public property, will admit a closer scrutiny. He was regarded, by those who knew him at that time, as a thorough student of all the elementary authors; but Elocution was a branch of the profession which he had entirely neglected. He had no practice in speaking, either in public or in private, and he had never witnessed a trial in a Court of

Record until after his admission to the bar. And possessing habits of extreme diffidence, his first efforts at the bar were regarded by the multitude as quite inauspicious. But he had staked his fate upon success, and each failure which he made, and each rally which he received upon his awkward diffidence, but prompted him to renewed exertions, and an ultimate triumph became inevitable. A few years only passed before he was engaged in almost every litigated case which arose either in the counties of Ashtabula or Trumbull. And at a later period a much wider field was opened for his labors. As an orator he never indulged in flights of fancy—and when speaking, if a sally of wit escaped him, which was rare, it was caustic and scathing, and left its object silenced and annihilated. From that diffidence which attended him in early life he is not yet entirely free, and when seeming marks of bitterness are indulged in by him, towards an opponent, those who know him best can still trace in them an effort to free himself from embarrassment arising from that cause. When speaking his posture is erect and graceful, but his gestures are not always appropriate and his voice is ever inharmonious.

His speaking is always extemporaneous, but no man was ever more successful in gaining the attention of an audience, whether as a stump orator he addresses the populace upon subjects of national interest, chops logic and law to the court, or canvassing facts, draws conclusions for a jury. He never fails to occupy the mind, and awaken the most intense interest in the subject under discussion—the voice, the manner, and the man are alike forgotten, and the argument alone engrosses the attention and impels to action. His language is appropriate and chaste, but his power as an orator consists not in beauty, but in force and strength.

In the fall of 1831 he entered into partnership, for the practice of law, with the Hon. J. R. Giddings, which continued for several years. The summer of 1835 brought him his first official promotion. The electors of the township of Jefferson conferred upon him the office of Justice of the Peace. In discharging the duties of that office his decisions were always prompt, and usually satisfactory, but his time being engrossed with more important matters, he left the Record to be made by clerks and students, consequently this was sometimes ill done, and sometimes neglected altogether. This was not always agreeable to the parties litigant, and he very soon resigned the trust. In the fall of 1835 he was elected Prosecuting Attorney for the County of Ashtabula, and held the office two years. From the commencement of his practice he was eminent as a special pleader, and the indictments drawn by him during that time are often referred to as precedents. At the October election in the year 1837, he was elected to represent his district in the Senate of the State. From the time he took his seat in that body he became active and efficient as a member of the Judiciary Committee, and very few measures were matured which did not bear the marks of his revising hand. He labored for, and was successful in procuring a law abolishing imprisonment for debt. During the first session he introduced a series of resolutions condemning the proposed annexation of Texas—averring it to be unconstitutional and inexpedient, tending to involve the country in war, &c. The yeas and nays

having been called, the resolutions received the unanimous vote of the Senate. At the next session—the winter of 1838–9—the rage for internal improvements was at its maximum, and the credit of the State was asked in every quarter, and freely given to aid, not only in general but in private speculations. He made strenuous efforts to prevent these depredations upon the Treasury, which created enemies among a very influential class of politicians. It was during this session that the State of Kentucky appointed commissioners to visit the Legislature of the State of Ohio and obtain the passage of a law to aid in the capture of "Fugitive Slaves." He made an able speech against the pasaage of the law, in which he condemned the Kentucky commission as an unwarranted interference in the legislation of Ohio, and denounced the law as a violation of the Constitution, and of the ordinance of 1787. The law, however, was passed, and the speech was extensively circulated and read, both by friends and enemies, and created a whirlwind of excitement. In the fall of 1839 he was again placed in nomination for the Senate, but those who were dissatisfied with his action upon the subject of loaning the credit of the State, availed themselves of the excitement produced by his opposition to the Kentucky commission, and the fugitive slave law, and thus produced a combination of elements otherwise uncongenial, which resulted in effecting his defeat by a majority of sixty votes against him in the district. He was ever radically Democratic in his political opinions, but associated with, and an earnest supporter of the Whig party. After the nomination of General Harrison in 1840, for the Presidency, Mr. Wade devoted himself to the canvass, and for the first time assumed the position of a political speaker, and soon became as much distinguished as a stump orator, as he had long been for his eloquence at the bar. In the fall of 1841, he was again elected, with great unanimity, to the Senate of the State. Near the close of the first session he resigned the office; but the next fall, contrary to his wishes, he was again returned to the same position. He served during another session, and had the satisfaction of knowing, not only that those odious "plunder laws," by which the State had been overwhelmed in debt, had become a by-word and term of reproach with the people, but also of seeing the Kentucky "Black laws," judicially condemned, and, by common consent, erased from the statute book of the State.

In the spring of 1841 he was married to Caroline M. Rosekrantz, of Middletown, Connecticut, by whom he has two sons.

In the spring of 1837 he entered into a partnership for the practice of law with the Hon. Rufus P. Ranney, now one of the Judges of the Supreme Court of the State of Ohio. The firm of Wade & Ranney continued for a period of ten years in successful practice, and during all that time in reputation and amount of business they were unrivalled in Northern Ohio. In 1843 Mr. Wade declined a renomination, and from that time until the spring of 1847 he held no public office, but devoted himself to the cares and pleasures of a family, and the necessary duties of his profession. Though at each returning election a portion of his time was required in the field, for he never failed to take a deep interest in the politics of the country—and in the summer of 1844 there were few townships in the north-eastern portion of the State that were

not edified by his eloquence. In February, 1847, he was elected by the Legislature President of the 3d Judicial Circuit in the State. His popularity at this time was unbounded. Amiable in disposition, and social in his manners—affable to all, and possessing a free heart and a liberal hand—prompt in all his dealings—temperate and free from vicious habits, while liberal in his principles, he was a favorite with the people of all parties; and known to be as he was, a profound lawyer, his election gave universal satisfaction.

He entered immediately upon the discharge of the duties of the office—those duties were arduous, but could not have been more successfully discharged. Industry and prompt attention to business have ever been habitual with him, through life—he never does but one thing at a time, and the particular subject upon which he is engaged engrosses his whole attention until it is disposed of. Whatever he does is well done—done in its proper place, time, and order—consequently he is seldom hurried with business, and has much of apparent leisure. He has a strong and retentive memory for facts which he regards as material to the subject or transaction before him, while the minutia making no impression are immediately dissipated, leaving nothing but the substance behind, and the mind unencumbered. His time upon the bench was short, embracing a period of four years only, but probably no man in the same length of time ever accomplished a greater amount of judicial labor. His circuit was large, and he found it overwhelmed with business, and he left it much relieved; since that time, however, two districts have been made of the same territory. His judgment strong and his perceptions clear, he was always ready—and though he gave an attentive and not impatient audience, yet he was prompt in his decisions. He possessed no pride of judgment, and therefore gave a candid hearing to arguments against his preconceived opinions. The following article shows something of the estimate in which he was held as a jurist; it is copied from an editorial in the "Mahoning Index," a Democratic newspaper, published at Canfield, Mahoning county, Ohio, on the 22d February, 1850. The editor, a Democratic lawyer, could not be suspected of entertaining any undue partiality for a political opponent. He says "Our Court of Common Pleas has been in session since the 12th. Hon. B. F. Wade, one of the best, if not the best Judge for the people and justice in the State, presiding—a man of superior legal attainments, and one that the bar and the community may well be proud of." Nor was this the isolated opinion of a single individual, as the following resolutions, unanimously passed by the members of the bar, at a meeting held at Akron, Ohio, on the 27th of March, 1851, a few days after the news of his election to the United States Senate was received, will fully attest.

"Resolved, That as members of the bar, we cannot but regret the departure of the Hon. B. F. Wade from his position as President Judge of the 3d Judicial Circuit, a position which he has maintained with dignity, courtesy, impartiality, and ability, in the highest degree creditable to himself, and the common profit of suitors, and improvement of the bar."

"Resolved, That we congratulate him upon his election to the highest legislative council of the nation, and take pleasure in expressing our

confidence that he will discharge the functions of his new office with the same extended intelligence, high integrity and sound judgment, that distinguished him upon the bench."

These are not the encomiums of partizans merely, but the voluntary tribute of respect, paid by all parties, to his distinguished abilities as a jurist. He was elected to a seat in the United States Senate, for the term of six years, on the 15th of March, 1851. He was then presiding upon the bench at Akron, Summit county, Ohio—the news to him was unexpected, but not unacceptable. From principle, as well as from habits of modesty, he always avoided office-seeking. He never sought office, although it has often been declined by him; and it is believed that this is the only office which he ever received which was not reluctantly accepted. This came unsought and unexpected, although during the winter his name had frequently been mentioned in connection with it. In his elevation to that position the bench and the bar have lost an eminent jurist, but it simply transfers him to a field of more varied, and it is hoped, of more extended usefulness.

HON. ALEXANDER M. CLAYTON,

OF MISSISSIPPI.

The subject of this sketch was born on the 15th of January, 1801, in Campbell county, Virginia, of poor, but respectable parentage. Having the misfortune, at the early age of four years, to lose his mother, he was confided to the care of an uncle, residing in the County of Louisa, by whom he was reared and educated.

His early education consisted only of what was then taught in the neighboring English schools, none of which were, at that day, of a very high order. In his seventeenth year he was placed at a classical school, where, in a little less than two years, he read the usual course of Latin authors, formed some acquaintance with the Greek, and perused many of the standard English writers. After leaving this school, he engaged in teaching, for nearly three years, in order to procure the means of studying a profession. In the intervals of his duties, he devoted his leisure chiefly to the study of history, and commenced the study of the law. It was his habit, in the course of his studies, to take copious notes, from a conviction that "reading, without the use of the pen, is little more than a dream;" and this habit he has preserved to the present time. His favorite authors in the law were Coke and Littleton, and Mr. Fearne. The great learning of the one, and the singular clearness and acuteness of the other, had peculiar fascinations for him; and this early selection of his favorites evinced, while, doubtless, it strengthened and encouraged, the original character and bias of his mind.

In 1823, he entered upon the practice of the law, in the County of Louisa. The bar, to which he was then introduced, was crowded with lawyers of eminence and experience. Amongst them were P. P. Barbour—afterwards one of the Associate Justices of the Supreme Court

of the United States—and his great rival, Richard Morris, who was by many regarded as the equal, and by some as the superior, of Barbour. Barbour was a student; Morris a genius, averse to mental labor. The former possessed vast stores of legal learning; uncommon acuteness of mind; quick perceptions; great powers of analysis; a nice discrimination, and the rare faculty of summoning all his resources, varied as they were, to his aid at will. The latter was one of Nature's orators. From the county of Patrick Henry, he was no unworthy representative of his eloquence. His mind was of vast range and comprehension; quick, ready, and suggestive of infinite resources from its own reflections. He *would* not study; but, by conversation with the Wirts, the Wickhams, and the Leighs, he learned almost as much as others did from study. There, too, following almost with equal steps, was Gordon, who has since won an extensive reputation in the halls of Congress. The intellectual contests between such men as these were well calculated to awaken enthusiasm in the younger members of the profession, and to increase their knowledge, if not to add to the number of their briefs. It was often said by Barbour himself, that the man who could be great at the bar of Louisa, would also be great in the Supreme Court at Washington.

Of course, at such a bar, no young lawyer could reasonably have hoped for much of pecuniary success; and, for four years, young Clayton struggled on, with barely enough of profit for a support. He continued his laborious habits of study, and, besides a large number of the elementary writers on the law, read all the Virginia Reports, which then numbered twenty volumes. This diligent perusal of the Reports, and the *habit* of reading them, to which it insensibly led, he has always considered to have been of especial value to him in the commencement of his professional career; not only because he thereby became acquainted with the decisions of the Courts, but because he also became familiar with the mode of argument of the best lawyers of the day. Becoming, at length, weary of the prospect before him, and confident of his ability to succeed in any field that was not entirely pre-occupied, his want of fortune determined him to emigrate to the West. There were those, however, who anticipated for him no success as a lawyer. At no period of his life has he enjoyed the blessing of vigorous health. An original feebleness of constitution, increased by sedentary habits, seemed to throw a formidable obstacle in his way. His voice was so weak that many of his friends thought it impossible for him to make himself heard at the bar. He was, himself, not free from fears on that account, and was thereby led, at an early period of his professional life, to prefer the practice in the Chancery and Appellate Courts, where a declamatory style is out of place. In time, however, his voice became strengthened and improved by frequent exercise, and he was enabled to appear in the Circuit Courts; but it was never equal to any continuous effort in the open air. Hence, he was always unable to embark in political life, and was thus induced to devote himself more exclusively to the law than has been usual in the South-West, with eminent members of the profession.

In 1827, having formed a matrimonial connection with Miss Thomas, of Charlottesville, Va., Mr. Clayton removed to Clarksville, Tennessee,

and entered upon the practice of his profession. The bar at that place was one of more than ordinary ability; but his habits of industry soon secured him business, and it was not long before he occupied a highly respectable position as a lawyer. Many interesting questions were presented in the cases that occurred in his practice; but only a single one will here be noticed. The question arose in the case of *Morgan vs. Elam*, reported in 4 *Yerger*, 391. The point here involved was the extent of the power of a married woman over property settled to her separate use before the marriage. The whole of a large estate was at stake in the cause. At that day, no other question was more distracted by conflicting decisions, or rendered more intricate and complex by a multitude of refinements and subtle distinctions. In a large class of the English cases, and by nearly all the elementary writers, it was held that the married woman, in such cases, was as if sole, and possessed an unlimited power of disposition. Another class of cases—far less numerous, but founded upon true principle and better reason—laid down the doctrine that she had no power of disposition, except such as was expressly conferred upon her by the instrument creating her separate estate. Mr. Clayton maintained the latter rule; and the Supreme Court of Tennessee adopted it in its final decision. One of the Judges —Catron, now of the Supreme Court of the United States—said, in his opinion, that "the argument of Mr. Clayton was by far the most learned examination of the subject he had ever met with; and that his opinion was principally extracted from it." Chancellor Kent, in his Commentaries, refers to the argument and decision in this case, in terms of high commendation. He had some reason to look upon it with favor; for it sustained his opinion in a celebrated case, whilst he was Chancellor of New York, in opposition to the Court for the correction of Errors of that State, by which his decision had been reversed. 17 *Johnson's Rep.* 518. The same principle was afterwards established in the Appellate Court of Mississippi, when Mr. Clayton had become a member of that tribunal. *Doty vs. Mitchell*, 9 *Smedes & Marshall*, 447.

In 1832 Mr. Clayton lost his wife, the partner of his early difficulties, just as he was beginning to overcome them. She left a son and a daughter to his care. Shortly after this event, he was appointed by President Jackson one of the Territorial Judges of Arkansas. He accepted the appointment, believing that, in this new field, the road of preferment and prosperity would be more open and easy than in the beaten track of professional life. But his health gave way, in consequence of exposure to the atmosphere of the cholera upon the Mississippi river; and in a little more than a year he was compelled to resign his position upon the bench. In his short judicial career in Arkansas, he established a high reputation for an accurate knowledge of the law, and for strict impartiality in the administration of justice. He returned to Clarksville, and there resumed the practice of his profession, with far more of profit than had attended his earlier efforts. Soon after his return he was appointed a Special Judge of the Supreme Court of Tennessee, and discharged the duties imposed upon him by that office to the general satisfaction of the bar and the public.

After the United States had acquired the title to the lands embraced in the Chickasaw Cession, lying in Northern Mississippi, Judge Clay-

ton was attracted to that region by the fertility of the soil, and the agreeable temperature and healthfulness of the climate. Before the country was laid off into counties, he purchased lands, for planting purposes, near the present town of Holly Springs. This purchase led to his removal to that place; and he thenceforth combined the pursuits of agriculture with the practice of the law. The Courts of the new counties soon became crowded with litigants; and he obtained a large and lucrative share of business, and devoted himself to his profession with great industry and energy.

Questions of much interest and importance were of frequent occurrence. The mind of the lawyer knew but little repose, and was stimulated to constant exertion by the imperative demands of duty. Judge Clayton's cases, however, were never permitted to want attention, but were always prepared for trial, when they were reached upon the Docket. The amount of labor performed by him was immense. From his physical appearance, a stranger would have believed it impossible for him to have done a tithe of what he really accomplished, day by day; and the writer of this article, who has enjoyed opportunities more favorable perhaps than those of any other person, to form a correct opinion in regard to the amount of his professional labors, has often had occasion to express his surprise, that *any* man could perform so much. His extraordinary facility in this respect, was mainly to be attributed to his habits of order and method, and to the ready command over all his early acquisitions that resulted from the mode of study he had originally adopted. But these continuous calls upon his physical and intellectual energies proved, at length, too much for his feeble constitution to bear with impunity, and he found, in 1842, that the labor and anxiety of mind attendant upon his large practice was gradually, but surely undermining his general health. In 1839 he had contracted a second marriage with Miss Barker, of Clarksville, Tenn., and he was now easy in his circumstances; but he had been so long accustomed to an active life that he was unwilling, notwithstanding his impaired health, to relinquish altogether his connection with the legal profession. Accordingly, a vacancy having occurred on the bench of the High Court of Errors and Appeals of the State of Mississippi, by the resignation of Judge Trotter, Judge Clayton became a candidate for the station, and was elected by a large majority over his opponent. The result of that election was as highly honorable to him as it was creditable to the people by whose suffrages he was elevated to the bench. His personal acquaintance in his district—comprising one-third of the State—was not extensive; and in his intercourse with the people he disdained to employ any of the arts of the demagogue. He was elected upon the sole ground of his well-known qualifications for the discharge of the duties of the office he sought. And so satisfactorily, to the Bar and the people, did he discharge those duties during the term of three years for which he was first elected, that, upon the expiration of that term, he was re-elected for the full term of six years, by a large majority, and in the face of a violent opposition, partly political in its character, and partly growing out of some decisions, in which he had concurred, involving the question of the liability of the debtors to the insolvent Banks of Mississippi. Those debtors were numerous, the claim affected

by the decisions large, and the influence of the parties was very great; but the mass of the people could not be swayed by considerations so obviously interested in their character.

During the nine years of Judge Clayton's connection with the bench of Mississippi, fifteen volumes of the reports of the decisions of the High Court of Errors and Appeals were published; extending from 7 Howard to 14 Smedes & Marshall, inclusive; and those reports embrace but a part of the cases determined by the Court during the period of their publication. In no State of the Union has a greater variety of important questions, in every branch of the law, been settled in the same length of time. The law-merchant; the peculiar doctrines of Courts of Equity; the jurisdiction of the Probate Courts, and the principles that govern their action under the constitution and laws of Mississippi; the conflict of laws; the forfeiture of corporate powers by banks, and the effect thereof under the local legislation of Mississippi, were among the many questions decided by the Court. The reports will show that, in the performance of the vast amount of judicial labor imposed upon the Court whilst he was on the bench, Judge Clayton bore his full share. Rarely absent from his post, he labored with a diligence that has seldom been surpassed; and the decisions, contained in the reports above referred to, will not suffer by a comparison with those of any other Appellate tribunal in any of the States. A few, only, of those decisions, will be here briefly referred to, in which Judge Clayton delivered the opinion of the Court; and from his opinions in these cases your readers will be able readily to form their opinions in regard to his ability as a Judge; the extent of his legal learning; his mode of reasoning, and the diligence with which he discharged the duties of his office.

The case of Nolan vs. the Commercial Bank of Manchester, 7 Howard, 508, presented the question whether, when a bank reserved a higher rate of interest than that authorized by its charter, the whole contract thereby became void. After an elaborate argument, it was held, by a majority of the Court, that the entire transaction was not vitiated by the usury; and this conclusion was afterwards sanctioned by the whole Court in the case of the Planters' Bank vs. Sharpe, 4 Smedes & M., 83.

In the Natchez Ins. Co. vs. Stanton & Bucknor, 2 Smedes & M., 340, an interesting question of insurance was decided, and it was settled, after a very thorough investigation, that the taking of a brig in tow by a steamboat amounted to a deviation, and released the underwriters. Garland vs. Rowan, in the same volume, 617, contains a sound practical examination of the principles of comity which govern States in cases of the conflict of laws.

Williamson vs. Williamson, 3 Smedes & M., 715, discussed and sustained the power of a State Legislature to pass a special private act, authorizing a particular mode of disposing of the realty belonging to the estate of a decedent.

Thomas vs. Phillips, 4 Smedes & M., 358, was a case of great importance, from the large amounts that were known to depend upon its determination. Judgment had been obtained at law, upon a note given for the price of slaves introduced and sold as merchandise, con-

trary to a constitutional prohibition. The defence was not set up at law, but an application was afterwards made for relief to the Chancery Court; and the decision of the Appellate Court was that Equity could afford no relief in such a case, either upon general principles, or upon the ground of the peculiar constitutional provisions of Mississippi in regard to the jurisdiction of the Chancery Court.

The cases of the Commercial Bank of Manchester vs. the State, 4 Smedes & M., 439 and Nevitt vs. the Bank of Port Gibson, 6 Smedes & M., 513, excited great interest and no little feeling at the time of their determination. The Legislature had provided for proceedings by *quo warranto* against all the Banks in the State whose charters had been violated; but it was also provided that the liabilities of the debtors to the Banks should not be extinguished by a judgment of forfeiture, but that the assets should be collected and applied, under the authority of the Courts, to the payment of the Bank debts. It was a time of great pecuniary pressure, and the misgovernment of many of the Banks, with other circumstances, had rendered them the objects of general odium. By solemn judgments, the charter of almost every Bank in Mississippi was declared to be forfeited. The grave question was then presented, whether the assets of the Banks could be collected? If it was decided in the negative, an immense number of persons would be released from a load of debt which they were totally unable to discharge. They employed a formidable array of counsel to advocate their cause, and a long list of equally able men was retained upon the other side. No argument was left unessayed. The public press enlisted in the controversy, and was loud and violent in its partisan appeals. The law, too, was crude and imperfect in its details and left much to be construed. The Court upheld the power of the Legislature over the subject, and sustained the doctrine that the assets of the Banks could be collected. These decisions were rudely assailed, but the Court remained firm and tranquil, and was ultimately sustained by the public sentiment as well as by the legal profession.

In the American Colonization Society vs. Wade, 7 Smedes & M., 663, the doctrine of charities and trusts was investigated at some length, and with reference as well to the local legislation upon the subject as to the general principles applicable to the bequest. The decision recognizes the power and capacity of the society to accept a trust, liberate slaves, and colonize them in Liberia.

Carroll vs. Renich, 7 Smedes & M., 198, discusses the doctrine of executory devices, and places them on a plain and intelligible basis, under the wise and judicious legislation of the State.

Arthur vs. the Commercial and Railroad Bank of Vicksburg, 9 Smedes & M., 394, considers and recognizes the power of a Bank to make a general assignment of its effects for the payment of preferred creditors; and this case, with that of the Farmers' Bank of Virginia vs. Douglass, 11 Smedes & M., 469, may be referred to as presenting a lucid examination of the question of fraud, and of the circumstances from which the existence of fraud may be inferred. It will be noticed, also, that the standard of legal morality, inculcated in these cases, is of a very high order.

Siddell vs. Sims, 9 Smedes & M., 596; Greenwood vs. Sigan, 10 S.

& M., 615; Clark vs. McCreary, 12 S. & M., 347; the Corporation of Aberdeen vs. the Female Academy of Aberdeen, 13 S. & M., 645, and McCann vs. the State, *Ib.*, 471, involve questions of general interest, and contain a thorough investigation of principles.

Montgomery vs. Ives, 13 S. & M., 161, is highly interesting, both from its elaborate research into the earlier history of the boundary of the province of West Florida, and its discussion of the relative rights of Great Britain and Spain to make grants of land in the province prior to the Revolution. The case is one which is not likely to be of practical utility beyond the limits of Mississippi; but it affords an exhibition of considerable learning upon an intricate and obscure subject. It reflects, too, some light upon diplomatic policy. In the dispute between our Government and Spain, relative to the boundaries of the province, a proclamation of the English monarch, extending the boundary from latitude 31° to the mouth of the Yazoo River, in latitude 33°, is kept out of view. That fact, if made known, would have given to Spain an additional claim to disputed territory; but she appears to have been ignorant of it, and our own Government manifested no disposition to enlighten her upon the subject.

A reference will be made to but a single case in the volume in which the last of Judge Clayton's judicial labors are reported—Carter vs. Carter, 14 Smedes & M., 59—in which the wife's equitable right to a settlement, out of property owned by her, is upheld, under circumstances of rather a peculiar character.

The fifteen volumes of reports that have been referred to, contain a large number of other cases of great interest and general importance, in the decision of which Judge Clayton took a prominent part; but those already adverted to will sufficiently indicate the character of his mind, the style of his opinions, the mode of his reasoning, his habits of investigation, the extent of his researches, and the variety of his legal acquisitions.

He was generally regarded, by the members of the legal profession in Mississippi, as an ornament to the bench, and the correctness of his opinions was rarely questioned, though he was no exception to the general maxim that it is impossible for any Judge to give satisfaction to everybody by his decisions.

The great mass of cases presented to the practising lawyer for his opinion and action, depend upon principles which have already been decided; and his advice and conduct is generally governed by the precedents. He appreciates, therefore, the paramount and practical importance of the possession of extensive legal information on the part of those who occupy seats in the Appellate Courts; for he knows that without such information, the adjudications upon the rights of parties must always be fluctuating, and that he can never advise his clients with any degree of confidence. Judge Clayton was regarded by the bar, on account of his legal knowledge, as an almost invaluable member of the Court. While he knew what the precedents were, or where to find them, he avoided equally the error of blindly following all without discrimination, and the other error of disregarding all which, however long and authoritatively established, might seem to admit of question. Knowing his character for learning and integrity, it was not

difficult, therefore, for the lawyer who really understood the facts of his case, and the principles of law applicable to its peculiar features, to predict, in advance, with some degree of certainty, the probable character of the decision of the appellate tribunal—or, in other words, he was satisfied that the law, enlightened by reason, would be impartially administered.

At the general election of November, 1851, Judge Clayton was again a candidate before the people of his District for re-election to the office he had held for nine years. He was defeated, but by no causes connected with any question affecting his judicial ability or integrity. The test was purely a political one, having no reference to the duties of the office he sought. Although it may appear somewhat foreign to the ordinary plan of a biographical sketch to refer in it to political questions, it may be considered not altogether improper to do so, briefly, in this instance.

In 1850 the whole country was intensely excited by the questions growing out of the Mexican war. The opinion of Mississippi was not then divided upon those questions; and Judge Clayton, with the other members of the High Court, in obedience to the wish of the people, consented to attend the Nashville convention, in June of that year, as one of the delegates from the State at large. The December meeting of that convention he did not attend.

The convention was assailed in advance, and still more bitterly after its proceedings were published; but, after all the obloquy that has been heaped upon its members and their motives, it must now seem ridiculous to any unprejudiced mind to hear ascribed to their resolutions, unanimously passed, any other than a conservative design and tendency. So *then* thought the people and press of Nashville, whose prejudices had been excited against the convention before it assembled. But they attended its sittings—all of which were public—they heard the discussions, listened to the resolutions, and their prejudice was changed to favor, so that, at their request, when it had been determined that the convention should reassemble at Marietta, in Georgia, it was arranged that the second meeting should be held at Nashville; and a series of brilliant entertainments were given to the members by the most patriotic citizens. These facts should put to flight the unfounded charge that the convention contemplated a severance of the Union. Its object was, to unite the South upon some common and constitutional platform, for the security of its peculiar domestic institution, in the hope and belief that the North, seeing that the South was united on this subject, would meet her upon this common ground, and amicably adjust all existing difficulties. If this object was not successful, and to the full extent desired, the fault lies not at the door of the convention.

As an additional proof of the conservative principles of the convention, it may be proper to state that Judge Clayton prepared an address to the people of the North—the address adopted by the convention being directed to the South alone—which was submitted to the Mississippi delegation and approved by all. It was a calm and earnest appeal to the North to respect the constitutional rights of the South; to cease the agitation of the slavery question; to let that institution alone; and to consent to an extension of the Missouri compromise to

the Pacific. It concluded with an assurance that, if they would but comply with these reasonable requests, fraternal amity and concord would be at once restored. It was deemed by the convention unnecessary to adopt this address, which shows, however, beyond all doubt, what were the views and objects of the delegates from Mississippi, and especially of the subject of this notice.

At a later period, and in the further progress of the controversy in Mississippi, Judge Clayton was called on by a committee to prepare an address to the people of the State, in regard to the measures of redress to be pursued. He complied with the call; but the address as prepared by him was very materially altered in its distinctive features, without his knowledge or concurrence, before its publication. The plan proposed by him to adjust the differences, was first a Convention of the people of the State, that they might consider what would be satisfactory to them. Next a Convention of the Southern States, to ascertain in this mode, what would satisfy them. Lastly a Convention of all the States—to consider of the grievances of the South—to adopt some mode of adjustment and redress if practicable, and if not, to agree on some terms of peaceable separation.

Whatever opinion may be entertained of the wisdom or policy of these recommendations, their conformity to the Constitutional rights of the States could not have been questioned by any, who admit the right of a free people to alter and amend their form of Government, nor could it have been asserted that treason lurked beneath them; but artful politicians were able to persuade many of the people that the published address contained "disunion sentiments." A violent political contest was being waged throughout the State, and Judge Clayton, while he sought to avoid the strife, was publicly called upon and required to "define his position" and declare for whom he should cast his vote for the office of Governor. Parties were arrayed against each other under the distinctive names of "Union" and "State Rights." Secession was no part of the design of the latter party. They ever denied it; but, by the ingenuity and unscrupulousness of their opponents, the imputation was fastened upon them—in the popular opinion. No distinction was recognized between a disapprobation of the compromise measures and a determination to dissolve the Union. Great excitement prevailed, and the contest was marked with the utmost acrimony. Judge Clayton belonged to the State Rights party, and shared in the general defeat. He was proscribed for opinion's sake; but this was the common fate, for none were spared. In the hour of defeat, however, it must be to him a high consolation to know that, during the canvass, his official conduct was never censured, and that none of his heated political enemies called in question his integrity, or denied his capacity as a Judge.

In the midst of his professional and judicial avocations, Judge Clayton has kept up an acquaintance with the literature of the day, and has ably and zealously promoted the cause of education. For some years past, as President of the Board of Trustees of the University of Mississippi, he has contributed efficient aid to the success of that institution. He still resides in the County of Marshall, and has become independent in his circumstances; but the love of his profession has triumphed

over the love of ease, and he has returned to the practice of the law, with the enthusiasm of his younger years. May his career be long, brilliant and prosperous!

S.

HON. CHARLES F. KEITH,

OF TENNESSEE.

The paternal grandfather of the subject of this memoir was a native of Scotland. After the fall of the House of Stuart, to which dynasty he was devotedly attached, his estates were confiscated and he emigrated to the North American Colonies and settled in Fauquier county, Virginia, where he was for many years an eminent minister of the Episcopal Church. Shortly after his arrival in America he married Miss Isham Randolph, a lady remarkable for strength of character, high literary attainments and deep piety. They had a large family of children from whom have descended some of the most illustrious men of Virginia. Their second daughter married Col. Marshall and was the mother of the late lamented Chief Justice of that name. Their third son, Alexander Keith, the father of the present Judge, was for several years an officer in the Revolutionary Army, and took an active part in our struggle for independence. About the close of the war, being then a widower, he married Mrs. Thornton, formerly Miss Galihue, and took up his home in his native county of Fauquier. Here they resided for several years and raised a large and respectable family. Their second son, Charles Fleming, was born on the 22d day of November, 1784, and in 1799, he removed with his father and family to Tennessee, which had only a few years previously been admitted as one of the States of the Union. Amid the wild and romantic scenery of that new and flourishing commonwealth, he acquired a vigor of constitution and a manly reliance on his own energies, which prepared him for the performance of the arduous duties his country was to impose upon him in after life.

In 1802 he returned to Virginia and commenced the study of law, at the early age of eighteen years with his friend and relative Charles Marshall, a brother of the Chief Justice, and at that time a prominent member of the Bar at Warrenton. He applied himself assiduously to the study of that abstruse science and under the direction of his able instructor acquired a profound knowledge of the elementary principles of the law. He resided for two years in the family of Mr. Marshall, and the kindness and attention shown him by that worthy gentleman and his most excellent lady, were highly appreciated by him, and to this day he recurs with the greatest pleasure to the time passed under their hospitable roof. He has, indeed, always considered, that he was extremely fortunate in preparing himself for the active duties of his profession in the office of such an accomplished gentleman and able jurist, and one who devoted so much time and attention in assisting him

to acquire a knowledge of the practice as well as of the theory of the law.

It may well be questioned whether a young man, who has a finished education, can select any place better calculated to prepare himself for a successful entrance upon the duties and responsibilities of the legal profession, than the office of a lawyer in full practice, who will make him his companion, hold frequent converse with him on legal subjects, cause him to investigate cases and transcribe pleadings, and who will direct with care all his studies both literary and professional, and watch with interest over the development of his moral and intellectual character. The misfortune is that lawyers will very rarely take it upon themselves to act in this manner towards their students, and indeed it but seldom happens that it is possible for them to do so. Hence young men of fortune most generally prefer to seek a law-school to prepare themselves for the practice of this profession; but while they find there many advantages which a lawyer's office does not afford, and many motives to arouse their energies and stimulate their exertions which solitary labor does not excite, yet they have many dangers to encounter, and are apt to form inadequate ideas of the responsibilities that await them, and to think, when they get their license, they can enter at once with *eclât* and without difficulty upon a successful practice. It not unfrequently happens, therefore, that, when thrown into active life, they become discouraged at the fearful and severe ordeal through which they are required to pass, and consequently resign their profession with all its expected honors and emoluments, and betake themselves to some other occupation. Fortunately, however, for our country and the profession, the system of most courts, which is so well adapted to prepare a young man to become a practical and efficient jurist, is beginning to assume a prominent position in all our law-schools, and, if properly enforced and adhered to, will make them what they ought to be, the vestibule, as it were, through which every one should be required to pass before he can be permitted to enter that grand and magnificent edifice, the temple of the Law, where the rights and liberties of the people are investigated and decided.

This is a topic which would afford abundant material for an extended article, but we must return to the subject of our memoir, one of whose fellow students during his residence in Warrenton, was Richard A. Buckner, a young man of accomplished manners and brilliant genius, and who has filled with distinction high political and judicial offices in Kentucky, his adopted State.

In 1804 Keith returned to Tennessee, but being too young to be admitted to the bar he again visited his friends in Virginia, and after devoting several months to the study of his profession, returned home and commenced the practice of law in 1805, in Jefferson and the adjoining counties, where he obtained an extensive and lucrative business. The legal profession in East Tennessee at that time combined as much talent as has ever been possessed by any portion of the State. It ranked among its members such names as White, Whiteside, Scott, Trimble and others; men who have filled some of the highest offices in the gift of the nation. It was among such men as these, able and profound jurists, that Mr. Keith first entered upon the practice of the

law, but he applied himself with diligence and energy to the labors of his profession and notwithstanding this brilliant array of talent that challenged the homage and admiration of the people, he received a full share of the business in all the Courts he attended.

In 1809 his father removed with his family to the State of Mississippi, and Charles expected to follow after him during the next year, but meeting with Miss Elizabeth Douglas, daughter of Philip Hall, who emigrated at a very early period from Virginia and settled on the Nolochucky river, in what is now Green county, Tennessee, he became enamored of her charms and was married to her on the 31st day of October, 1851. Were it not for extending this article to an inordinate length it would be interesting to give an account of the ancestors of this amiable lady; they were originally from Scotland, and their numerous descendants are now scattered throughout the States of Virginia, Kentucky and Tennessee.

After his marriage Mr. K. continued to reside in Jefferson county, and acquired great reputation in his profession, to which he applied himself most assiduously until the year 1817, when he became a candidate for a seat in the Senate of his State Legislature.

It was at a time when federal politics had but little to do with State elections; parties were not organized as at the present day, and each candidate had to rely for success alone upon his personal address and the manner in which he acted with respect to the local questions of the country. After an animated contest with a gentleman of high respectability, and great personal popularity, Mr. K. was elected and took his seat in the Senate in the fall of 1817.

The life of a legislator has but very little of interest attached to it, when he is merely pursuing the ordinary routine of business, and his time is occupied in attending to the private and local interests of his constituents, and when no great questions are presented for discussion and determination which excite the public mind, and call forth the talent and energy of the Representatives from different portions of the State.

Such was the position of our new Senator. We shall consequently pass over the first session of his political life, remarking that the best commentary we can make upon the fidelity with which he represented the interests of his constituents, consists in a simple statement of the fact that at the next session of the Legislature, two years afterwards, he was returned to his seat in the Senate without opposition.

That session was one of great interest on many accounts. By the treaties of 1817 and 1819 the Cherokee tribe of Indians had ceded to the United States a large and beautiful tract of country, a portion of which was afterwards laid off and called the Hiwassee District. The benefit of this purchase, to a certain extent, was given by compact with the General Government to the State of Tennessee, and the question arose at this session of the Legislature as to the manner in which the lands should be appropriated.

A special committee was raised to consider of that important subject, and after much deliberation they reported to the Senate a bill providing for the exigencies of the case. But the measure proposed by

the committee was not acceptable to the Senate, and Mr. K. was allowed to withdraw the bill for amendment.

Taking for his model the plan introduced by Mr. Jefferson in the Continental Congress in 1784, and subsequently modified at the suggestion of Messrs. Monroe and Grayson, Delegates from Virginia in 1785, of laying off the counties into townships of six miles square, and subdividing those into sections and quarter sections, he prepared a different bill more conformable to the wishes of the Senate as manifested by the debates, and offered it in lieu of the one reported by the committee. This was a new feature in the Legislative history of Tennessee, but after the most mature reflection the substitute was adopted by the Senate without any material alteration.

It may be proper here to state that the Hon. Thomas L. Williams, the present distinguished Chancellor of the Eastern Division of the State of Tennessee, was a member of the Legislature at that time and performed a conspicuous part in the passage of this law. Upon many other important occasions his capacious intellect devised measures of policy for the government of the State which have redounded greatly to the honor and happiness of his countrymen.

He was an early and fast friend of the able jurist whose character forms the subject of this imperfect sketch, and that friendship in their frequent intercourse in life has been unbroken through a series of years, and now forms for them a source of comfort and pleasure as they are passing off the stage of action, full of years and full of honors.

Experience has shown the wisdom of the plan adopted by the Legislature in 1819, for appropriating lands and defining their boundaries, and the State of Tennessee again gave her sanction to it by the Act of 1837–8, disposing of the lands in the Ocon District, which had been purchased by the treaty of 1835 from the same tribe of Indians.

It is almost impossible where lands have been thus surveyed and sectioned, for litigation to arise in relation to the true boundaries of adjacent tracts. Hence, in the Hiwassee and Ocon Districts the abstruse learning relative to "ancient boundaries and landmarks" has been very rarely called into requisition, and has given the legal profession but few fees and but little trouble. In other portions of the State, however, where lands were differently appropriated, and each person was permitted to make his location of almost any size or shape that he desired, and to run the lines in any direction that might suit his fancy, innumerable disputes have arisen and continue to arise between the owners of adjacent lands, and endless controversy and litigation have resulted therefrom.

This is an evil which cannot now be remedied, but the country owes it in a great measure to the subject of this memoir that all that beautiful country reclaimed from the Indians by the treaties of 1819 and 1835, was not subjected to a similar calamity.

At the same session of the Legislature, the statute of limitations to real estate formed a fruitful topic for debate and controversy. The act of 1765, and that of 1797, explanatory of it, had given much dissatisfaction to the country, and the greatest diversity of opinion existed both on the bench and amongst the members of the bar, in relation to the construction to be given to these acts. Many bitter hostilities orig-

inated from the controversies arising out of these statutes, and much excitement prevailed amongst the people in relation to the adjustment of their land titles. Mr. K., fully appreciating the evil under which the country suffered, gave his whole energies and lent his aid and influence to the settlement of this vexed question, and was instrumental in the passage of a law, prepared by the combined wisdom of the State, which gave peace and repose to the country, and harmony to the Courts.

Many other questions of interest to the country, in the management and discussion of which Mr. K. acquired much reputation for a correct judgment and discriminating intellect, came before that session of the Legislature; but it would be tedious to attend to them in detail. The best evidence of the high position he occupied amongst his colleagues, and of the confidence and affection they entertained for him, exists in the fact that about the close of the session they elected him Judge of the 7th Circuit over a distinguished member of the same General Assembly, who has since filled a high public position as a member of Congress, and more recently as a Judicial officer in a different section of the State of Tennessee. This Circuit consisted in part of the counties that had been purchased from the Indians, and was the largest and most laborious one in the State. It embraced a territory one hundred and fifty miles in length, intersected by mountains and numerous large water courses, and the Courts were required to be held semi-annually in each county. The entire southern and eastern boundary was divided only by rivers from the country belonging to and occupied by the Cherokee Indians, and many delicate questions arose in relation to the conflicting claims between them and the whites. Large portions of the territory were but sparsely inhabited, and very few accommodations could be had throughout the country. But the newly elected Judge, undaunted by any of these difficulties, entered at once with zeal and energy upon the discharge of the duties of his office.

In 1820 he removed with his family to M'Minn County in the Hiwassee District, and selected for his residence a beautiful place on the waters of the Eastanalla, which now bears the name of Elmwood. He has continued to reside there until the present time, and has seen the country advance from a wilderness to a high state of cultivation.

The life of a Judge is one continued scene of toil and labor, with very few incidents to vary or materially change the dull monotony of the ordinary routine of business. No one act, therefore, can be selected from the great mass of his performances and be looked to as an exemplification of the character and value of the services he renders to his country. His history is not like that of the politician, the hero or the statesman. The nature of his official duties does not require or indeed permit the performance of any of those brilliant achievements which dazzle and excite the public mind, and call forth the burst of enthusiastic applause from admiring nations. His highest praise and greatest honor consist in a pure, faithful, independent and impartial administration of the laws of the country, with a demeanor quiet, unassuming and dignified, which will command the respect and esteem of all who may be thrown within the circle of his influence. While he entertains decided, known and fixed views upon all great questions of national and

state policy, and the influence of his character and station is exerted in a silent and unostentatious manner in advancing the success of those measures, which, in his estimation, will contribute in the greatest degree to the happiness of his country, he should keep himself entirely removed from the exciting contests of political strife, and should not enter into the feelings, prejudices and animosities of parties and factions.

Such were the sentiments that shaped the conduct of Judge K. when he first took his seat upon the bench, and the same pure and impartial administration of justice, the same dignified and elevated demeanor towards all with whom he associates, the same disinterested devotion to conservative principles, now mark his intercourse with the world that characterized the first years of his judicial life.

The citizens of his adopted State have rewarded him well for the fidelity with which he discharged the high trusts conferred upon him, but he has always esteemed more highly the gratitude and affection of his countrymen, than all the pecuniary compensation he has received for his services. To secure that gratitude and affection has been one of the highest objects of his life, and the consciousness that he enjoys them in an eminent degree, is to him a source of infinite gratification.

As an instance of the confidence the people of Tennessee had in the integrity and discretion of the Judge, it may be proper to state that a few years after he was elected, the Legislature of the State appointed him a special commissioner to ascertain and assess the value of occupant improvements in the Hiwassee District, which had been lost to the persons by whom they were made. The assessments amounted to a very large sum, but the commission was executed so much to the satisfaction of the people, that the Legislature directed his certificates of the amount due to each claimant to be received as a lawful tender in payment for the public lands.

As an evidence of the delicate and responsible position in which the Judge was frequently placed in the performance of his official duties, it may be proper to refer particularly to one or two cases which are illustrative of the nature of the business that almost daily came under his cognizance. Shortly after Georgia extended her jurisdiction over the territory occupied by the Cherokee Indians within her limits, she directed a survey to be made of the lands bordering on the State of Tennessee. This was believed to be a violation of the intercourse laws then in force, and the surveyors were regarded by the Indians as trespassers, and subjected themselves to severe punishment for entering on their territory. One of the surveying party having wandered from his companions in pursuit of game, was surprised by the Indians who had been watching the movements of the party, and forcibly carried into the State of Tennessee, where he underwent an examination and, refusing to give bail to answer, was sentenced to be imprisoned, but obtained a writ of *habeas corpus* from Judge K., and was discharged by him, on the ground that the Courts of Tennessee could not take jurisdiction of the case, the defendant having been brought by violence, and against his will, within the limits of the State. Considerable excitement prevailed among the Indians as soon as they learned that their victim had escaped, and they called upon the Judge for a statement of

his reasons for releasing him. The Judge very promptly and kindly complied with their request, and gave them a copy of his opinion, and it was so satisfactory to them that no further disturbances were made.

The State of Tennessee having extended her laws over the Indian territory within her limits, Judge K. declared that he would not entertain jurisdiction of cases arising within that territory, and when a case of homicide came to be tried before him, he sustained a plea in abatement to the jurisdiction of the Court; remarking that the Constitution of the United States and the laws and treaties make in pursuance thereof were the supreme law of the land, and that his oath of office and self-respect required him to enforce them when they came in conflict with the legislation of his own State. This occurred about the time of the adoption of the new Constitution by the State of Tennessee, which required the Judges to be elected for a term of years by the Legislature, and after some of the members of that body had publicly announced that they would support no one who would not enforce the laws of the State extending the jurisdiction of the Courts over the Indian territory, and at a time when the tide of popular feeling was greatly in favor of assuming such jurisdiction.

The Judge was, however, sustained by the people in his decision, and the firm and independent course pursued by him in relation to that case is but an illustration of the impartiality and disinterestedness with which he enforces the laws as he understands them to be.

It would be labor rather superfluous to allude to other cases which came before the Judge, as it would be impossible to gather from them any correct idea of his conduct, capacity and qualifications.

The best evidence of the manner in which he discharged the duties of his office consists in the opinion entertained by those who were best acquainted with his judicial course. We therefore extract from a paper published some years ago in his own county, a portion of a tribute of respect paid to him by his fellow-citizens:

"It is now twenty-four years since the organization of the third judicial circuit of the State of Tennessee. During that period the Hon. Charles F. Keith has presided over its deliberations. His official conduct has hitherto been and is now *well known* to the great body of this community. A pure, faithful, impartial administration of justice has eminently distinguished Judge Keith in the discharge of the duties connected with his station. In that portion of his judicial course peculiarly belonging to the Grand Inquest of the county—the suppression of vice and the promotion of virtue have alike distinguished the labors and solicitude of this eminent jurist. * * * * We intend by this no unmeaning flattery. It is the homage paid by the agricultural laborer to judicial integrity and untarnished private honor."

A very remarkable instance of permanent and devoted attachment of a people to their public servants occurred in the person of Judge K. In 1819 he was elected for life, or during good behavior. In 1834 the tenure of his office was changed to a term of eight years. In 1836 he was re-elected, and with the exception of an interval of four years, has held the office to the present time, being about thirty-three years since he first went upon the bench. Lord Mansfield and Chief Justice Mar-

shall are the only persons, now in our recollection, who held the office of Judge for a greater period of time.

In 1824 the father of Judge K. died in Mississippi, at a very advanced age; and many years after his death his heirs received the bounty lands to which he was entitled as an officer of the Continental army, amounting in value at the time to a very large sum.

The Judge has always maintained a character for firmness and independence, candor and punctuality. He has never had any altercations with the members of the bar, but on the contrary has always been treated by them with the utmost kindness and respect. In all important contested causes which have been tried before him he has preserved extensive notes sufficiently luminous to enable one to make a report of the cases. His decisions are prompt, clear and forcible. His labors have been immense—such, indeed, as but few constitutions could have undergone; and yet it is a remarkable fact that during his long and arduous official duties he has only lost a portion of one term of his courts on account of ill health. He has five sons and four daughters, of whom one of the former and two of the latter are married. He has never had a death or other serious calamity to occur in his family, and in other respects the favors of Providence have been showered upon him with a bounteous hand.

In politics he is a Whig. Devotedly attached to the Union of the States and the preservation of the Federal Constitution, under which the nation has grown to be so great and powerful, he deprecates alike that *agitation* which threatens to array one portion of the confederacy against another, and that *disposition* manifested by some of our countrymen which prompts them to disregard the time-honored maxims of Washington, and the other founders of our government, and entangle themselves in all the petty quarrels, dissensions and alliances of foreign powers.

The Judge is not at all avaricious, but is prudent, discreet, and liberal in the expenditure of his means. He possesses a handsome estate, upon which he will soon retire from public life to enjoy *otium cum dignitate.*

Judge K. is still on the bench pursuing his duties with firmness and integrity. Surrounded by a large family in whose society his chief happiness consists, he takes much pleasure in turning their attention to literary pursuits and every occupation that is calculated to improve the mind and elevate the character.

HUMPHREY HOWE LEAVITT,

JUDGE OF THE UNITED STATES, FOR THE DISTRICT OF OHIO.

The subject of this brief memoir traces his descent, on the paternal side, to a sturdy Puritan, who emigrated from England, and settled near Boston, in the year 1628. Within the half century following, the ancestor of that branch of the family from which Judge Leavitt is im-

mediately descended, removed to, and found a home in, one of the Connecticut settlements, since and now known as the village of Suffield. Judge Leavitt was born there in the year 1796. About the period of his birth an extensive Land Company had been formed, consisting mainly of citizens of Massachusetts and Connecticut, which had become the owner by purchase from the latter State, of that portion of the then North-Western Territory, now constituting a part of the State of Ohio, and known as the Western Reserve. His father, having become interested to some extent in that purchase, and partaking largely of the spirit of western emigration, then rife throughout New England, resolved to remove to this then far off and almost inaccessible wilderness. In the spring of the year 1800, the necessary preparations for this difficult and somewhat hazardous enterprise were completed; and the emigrant family bade a final adieu to their comfortable home on the banks of the beautiful Connecticut, to encounter the toils and perils of a laborious journey to, and the hardships of a settlement in, the far-reaching wilderness of the West. This was two years before the adoption of the Constitution of the State of Ohio, and her admission into the Federal Union. At this time, the whole area of the territory forming that great State, and now numbering more than two millions of inhabitants, contained only a few thousand settlers, located principally along, and near to, the Ohio river. It will be scarcely possible for those of this age, in the full enjoyment of so many facilities for rapid and easy transit, to appreciate the difficulties encountered at that day, in migrating from the east to the west. The family referred to, pursuing what was called the Pennsylvania route, were obliged to pass over the series of mountain ranges which intervene, then destitute of any thing worthy of the name of a road. In the month of June, of the year last named, after a slow and toilsome journey, they safely reached their destination, in the immediate vicinity of the now thrifty town of Warren, in the county of Trumbull. Here, after the long continued fatigue to which they had been subjected, the family were glad to find a resting place, even in a primitive log cabin, of no very ample dimensions, erected for their reception in the depths of a dark forest. In this lowly dwelling, the subject of this notice spent some months of his early boyhood. This is not the place to record the many thrilling incidents occurring in that forest home, the recollections of which are yet vividly present to him. Let it suffice to say, that the deprivations and sufferings to which those early pioneers of the west were unavoidably subjected, were not of long duration. In general, those who ventured upon this difficult enterprise were men of indomitable energy of character, and under the stimulus of the highest obligation of duty to their families, and adapting themselves readily and cheerfully to the exigencies of their positions, they addressed themselves vigorously to the work of subduing the wilderness, and securing for themselves, and those dependent upon them, the comforts of life. As the result of their manly efforts, a few months had wrought an almost incredible change in the prospects and condition of the immigrants. Nothing daunted by the thick growth and gigantic size of the forest trees, the product of a rich and humid soil, large tracts were speedily cleared and prepared for tillage. Soon, field was added to field, and farm to farm, and soon the infant settle-

ment presented a happy community, rejoicing in their new homes, and in the full fruition of all the substantial comforts of life. And soon a peaceful and thriving village—the nucleus of the town of Warren—under the effect of the rapid tide of immigration that had now set in, as if by the potency of magic, had started up, bringing in its train, the means of social enjoyment, and of moral and intellectual improvement.

It was in this village that the subject of this sketch passed nearly the whole of that portion of his life intervening his sixth and sixteenth year. During the first half of this period, he enjoyed all the benefits, and achieved all the honors of the primary schools of that new-born community, including the flaggellations, then regarded as indispensable, in the process to teaching "the young idea how to shoot." He was then transferred to a grammar school started in the village under the charge of a graduate of one of the New England Colleges. Without insisting upon the pre-eminent qualifications of the ambitious pedagogue, who had adventurously found his way to a new settlement in the west, and had placed himself at the head of the village seminary, justice demands the concession, that he was an admirable teacher of the Latin and Greek languages. Here laudation must cease; for in contradiction of many things set forth in pompous Latin phrase, in his diploma, truth requires the affirmation that he was sadly deficient in mathematics, and the kindred sciences. Under the guidance of this teacher, young Leavitt read nearly all the Latin classics then in use in the seminaries of the country, and also made considerable progress in Greek. Having something of a natural aptness for the acquisition of languages, his advance in this department was easy and rapid. Unfortunately his career of intellectual discipline and improvement at this institution was arrested by the discovery that the accomplished pedagogue had become a victim to a habit of intemperate drinking, and almost unperceived by his friends and patrons, had already plunged deeply into this burning abyss. The light of this once hopeful seminary was thus mournfully extinguished, nor was it till after the efflux of many years that its altar was returned. It had been the purpose of the father of the subject of this memoir, to send his son to an eastern college; but owing to some adverse turn in his affairs, resulting in pecuniary embarrassment, he was unable to accomplish it. After the suspension of the grammar school at Warren, the son was sent for some time to an Academy in Western Pennsylvania—an institution which had been previously prosperous and useful, but at the time referred to, was in a declining state, and shortly after ceased to exist.

Before closing this notice of the meagre facilities for intellectual culture within the reach of the subject of this sketch, in early life, it may be proper to note the fact, that in the village of his boyhood, the inhabitants, greatly to their credit, had founded a small public library, containing a judicious selection of standard works of literature and science. To this library he had free access, and read, with avidity, nearly all the books it contained. Among these may be enumerated Hume's History of England, Smellie's Philosophy of Natural History, Mavor's Collection of Voyages and Travels, together with the Spectator and Rambler, and some other choice English classics. The knowledge

eviscerated from this humble village library, and the desire for further acquisition which it created, with the habit of reading to which it led, have doubtless exerted a material influence in the formation of his intellectual character. He has, however, never ceased to regret the want of thorough intellectual discipline in early life; regarding it as essential to a vigorous and healthy development of the mental powers. With this aid, he is deeply conscious his influence and labors would have been more useful to others, and far more satisfactory to himself.

In 1812, being then in his sixteenth year, unwilling to add to the pressure of pecuniary embarrassments resting heavily upon his venerated parent, he resolved to seek some employment as the means of support, and to enable him to prosecute a course of study, preliminary to his admission to the bar. Carrying out this purpose of fighting the battle of life, independent of aid from his father, he engaged for some time in the creditable, but laborious occupation of a teacher of youth. Without recounting all the struggles and difficulties of a youth, thus thrown so early upon his own resources, it will be sufficient to notice, that he was subsequently engaged as a merchant's clerk in a retail village store. Repugnant as this service was to him, he has never regretted the time passed in this humble vocation. As affording him a knowledge of the minute details of business, and especially, as enabling him to read a useful chapter in the great volume of human nature, it was of inappreciable benefit.

The progress of this memoir brings us to an incident in the life of him who is its subject, which, though altogether irrelevant to his professional character, demands a passing notice. It will be stated without further periphrasis, and in the fewest words. In the beginning of the year 1814, the government resolved upon an attempt to regain possession of Fort Mackinaw, which had been captured by the British, soon after the declaration of war, and before the American officer in command of the Fort had been informed of that measure. A regiment of militia had been detailed from northern Ohio, with orders to co-operate with the regular troops ordered upon this service, in conjunction with the naval force upon the Lakes. This regiment was placed under the command of a militia colonel, residing in the same village with the parents of Judge Leavitt. He was then a youth of eighteen, and the offer of an appointment in the staff of his friend, the militia colonel, was too tempting to be resisted. Without encumbering this sketch with any of the details of this military enterprise, it will be sufficient to state, that the proffered honor was accepted, and the six months' service duly rendered. Dearly, however, the youthful militia hero paid for this indulgence of the promptings of his military ardor. The campaign throughout was one of great hardship; and its results, so far as it concerns him with whom this memoir deals, may be summed up in these few words: that at the expiration of his term of service he was honorably discharged, and returned to his paternal home, without having achieved any appreciable amount of military glory, and with a constitution, up to that time remarkably vigorous, seriously and permanently impaired.

In the autumn of 1814, he commenced his legal studies under the direction of the Hon. Benjamin Ruggles, then and still a resident of

St. Clairsville, Ohio, for many years subsequently a Senator of the United States, and, at the date mentioned, President Judge of a Court of Common Pleas. After reading with Judge Ruggles for some time, the advantages of pursuing his professional studies in the office of a practical lawyer induced him to remove to Steubenville, in Jefferson county, where he became the student of the Hon. John C. Wright, then successfully engaged in the practice of his profession, and who was afterwards elevated to the bench of the Supreme Court of Ohio. This gentleman, though then a practitioner of but few years standing, had already given a presage of the high position he was destined to occupy at the Ohio Bar. The subject of this notice, with all the facilities for acquiring a thorough knowledge of his profession, remained in Judge Wright's office till the expiration of the statutory period of preliminary study, and was examined for license, and admitted to the bar, in August, 1816. In October following, being then some eight months short of the age of twenty-one years, he opened an office in the town of Cadiz, in Harrison county. It soon became apparent to him that this location had not been, in all respects, a judicious one. True, he was treated with great kindness and cordiality by the community in which he had become a resident, and received from them many tokens of their confidence. The county, however, had been then but recently organized, and its population was comparatively small and sparse. There was but a limited amount of professional business in the county, and the prospect of a lucrative practice was by no means cheering. But, notwithstanding his somewhat immature age, and a nervous trepidation, which then, and for some years afterwards, seriously oppressed him in public speaking, he obtained a very fair practice. This was fast increasing, when, near the close of the year 1819, he received a very advantageous proposal for a professional partnership with John M. Goodenow, then a very able and distinguished lawyer at Steubenville. He accepted this offer, and soon after removed to that place, where he continued to practice in his profession, in connection with Mr. Goodenow, for nearly four years. After the dissolution of this partnership, continuing to reside at Steubenville, in 1823, he was appointed, by the Court of Common Pleas, the Prosecuting Attorney for Jefferson County, which office he held till the year 1829.

In December, 1821, he was united in marriage to the youngest daughter of the late Doctor John McDowell, formerly of Chester County, in the State of Pennsylvania, but, for some years prior to his death, a valued and highly respected citizen of Steubenville—a gentleman who had honorably served his country, as an officer, in the war of the Revolution, and who, for several years, represented his native county in the Legislature, and was, subsequently, a member of the Executive Council of the State of his birth; and who, to his well-merited professional eminence, added the graces and virtues of the sincere and consistent Christian. To the subject of this notice, this matrimonial union has been one of unalloyed happiness. The chosen object of his early affection, cheerfully adapting herself to her position as the wife of a young man just setting out, with limited pecuniary means, upon the busy theatre of active life, has met fully all her re-

sponsibilities, and has beautifully illustrated all the sterling virtues and excellencies of the Christian wife and mother.

In the autumn of 1825, at the earnest request of many of his friends, Mr. Leavitt consented to be a candidate for a seat in the House of Representatives of Ohio, from the county of Jefferson. The spirit of party, then rife in elections connected with the national government, had not extended its influence to the local and legislative contests for popular favor. He was elected by a very decided vote over his respectable competitor. Having served for the term of this election, he peremptorily declined the nomination tendered to him the next year, with the full purpose of withdrawing wholly from public life, and of devoting himself exclusively to his profession. It has been to him a source of unceasing regret that he did not rigidly adhere to this resolution. He is conscious of having committed an error, quite too common with young members of the American Bar, in permitting himself to be diverted from a straightforward professional career, by the poor ambition of being regarded as a popular favorite, and a desire to figure in the halls of legislation. To a lawyer, who has not attained the point of professional maturity, and who has made no adequate provision for the just demands of a family, such a course, in a great majority of cases, is attended with very injurious results. It is always a great drawback to professional success and advancement, and generally involves a great sacrifice of pecuniary interests. Yielding, however, to what seemed to him the force of circumstances, in the fall of 1827, Mr. Leavitt accepted the nomination tendered to him by his political friends, as a candidate for the Senate of Ohio, from Jefferson County. After an exciting contest, in which the elements of party strife were fiercely mingled, he was elected by a very respectable majority, and took his seat in the Senate, on the first Monday of December, 1827. His right to a seat in that body was contested by his competitor, on the ground, that having held the appointment of Prosecuting Attorney at the time of his election, he was constitutionally ineligible to the Legislature; but the Senate, with but one dissenting voice, decided that this was no disqualification. Having served the senatorial term for which he was elected, he returned to his profession. At this period, the business of the law was in a state of unusual depression in the counties in which he practised; and finding his docket materially lessened, by his three years' service in the Legislature, a just regard to the interests of an increasing family induced him to accept the clerkship of the Common Pleas and Supreme Courts of Jefferson County. These he resigned after holding them for some months.

Previous to the election of October, 1831, he received and accepted the nomination as a candidate for Congress, in the district then composed of the Counties of Jefferson, Harrison, Tuskarawas, and Holmes. He was nominated for the unexpired term of the Hon. John M. Goodenow, who had resigned his seat, and also for the full term of the succeeding Congress. After an animated contest, he was elected by a large majority. Without expanding this sketch by a minute notice of his Congressional service, it may not be amiss to state that, during the term for which he was at this time elected, the important question of the re-charter of the Bank of the United States was presented for the

decision of Congress. Upon the question of the passage of the bill for this purpose, he was one of a minority of three, in the Ohio delegation, who recorded their votes in the negative. In thus voting, he was influenced by doubts of long standing in his mind, as to the constitutional power of Congress to incorporate a bank on the principles of that bill, and not less potently, by a settled persuasion of the inexpediency of perpetuating that institution.

At the election of 1832, he was again returned to Congress from the district composed, under a new apportionment of representation, of the Counties of Jefferson and Harrison. He took his seat, under this election, on the first Monday of December, 1833. This session terminated the last of June following. In the preceding autumn, the office of District Judge of the United States for the Ohio District, had been vacated by the death of the lamented Judge Campbell. At the close of this session of Congress, the Senate having previously negatived a nomination to that office, submitted by President Jackson, it was again vacant; and, upon the suggestion of a number of the friends of Mr. Leavitt, his name was presented to the President for that station. His nomination was transmitted to the senate shortly before the final adjournment of that body; and, although it contained a majority opposed to the then administration, the nomination was confirmed, it is believed, by a nearly unanimous vote.

Judge Leavitt took his place on the bench of the Circuit and District Courts for Ohio, at the July Term, 1834, being the first after his appointment. With one exception, arising from severe illness, he has been present at all the sessions of those Courts since that time. It is not proposed to extend this sketch by any notice of his judicial character and labors. It is believed he has discharged the duties of his station to the acceptance of the bar and the public. It may be noted here, that the position of a District Judge in the Federal Courts for Ohio is not one suited to the gratification of very lofty judicial aspirations. With occasional exceptions, the docket of the District Court does not present cases involving many controverted questions of law, which furnish the Judge with a fitting opportunity for judicial display. It is not vested with the powers of a Circuit Court; and in the latter Court the Circuit Judge, when present, necessarily presides. He is of superior official dignity; and a just courtesy to him, and a proper comprehension of the design of the organization of that Court, require that the demeanor of the District Judge, when thus associated in the performance of official duties, should be retiring and unobtrusive. He must feel the consciousness, that it is in keeping with his position to defer to the Superior Judge, when he can do so consistently with the preservation of his judicial independence and integrity. Since his appointment, Judge Leavitt has held but two terms of the Circuit Court, in the absence of the learned and distinguished Judge McLean, of the Supreme Court of the United States, to whom is assigned the Judicial Circuit, of which Ohio forms a part. The Judge just named is known to possess, in a eminent degree, the confidence of the bar and of the public, not only on account of his mature judicial experience, his accurate and varied legal learning, and the depth and reach of his massive intellect, but the scrupulous integrity which characterises the perform-

ance of his judicial duties. Thus associated, a District Judge, however well qualified for his position, could hardly hope to escape the charge of pertness and vanity in attempting to give himself an undue prominence in the Circuit Court. In this connection, it may not be inappropriate to remark that the infrequency of the terms of the Federal courts in Ohio is not auspicious to the development and improvement of the judicial qualifications of District Judge. The two terms of those courts, required to be held each year, are necessarily followed by long vacations, during which that Judge is only occasionally occupied with judicial investigations. These long suspensions of the active duties of the office can hardly fail to detract something from the promptness and spirit with which the Judge would otherwise engage in the dispatch of the term business; and, unless his habits and mental structure are such as to lead him to a constant course of severe legal study, from the mere love of the pursuit, he will probably find himself otherwise and more pleasantly occupied, to the neglect, it may be, of such reading as will be better suited to mature his judicial learning.

It may be noted here, that in the four volumes of reports of cases decided in the Seventh Judicial Circuit, for which the profession is largely indebted to the laborious habits and indefatigable industry of Judge McLean, there are a number of the opinions of Judge Leavitt, which have been furnished to the learned reporter, at his request. These embrace but a part of those delivered in the Circuit Court, and, of course, none given in cases pending in the District Court. Of the latter, he has a goodly number in manuscript, now quietly resting in the obscurity of the pigeon hole, from which there is no present prospect that they will ever emerge. Many of these originated in the discharge of the onerous duties cast upon the District Judge, in the administration of the late bankrupt law of the United States. That law, during its existence, gave rise to numerous questions, demanding much laborious research; in the decision of which, it was the habit of Judge Leavitt to reduce his views to writing, with the expectation that their publication, at some future day, might be expedient. The repeal of the Bankrupt Law has rendered this course wholly unnecessary.

In closing this brief memoir, the remark seems to be called for, that while there is nothing of imposing interest in the incidents which it records, it may not be altogether useless as presenting for consideration the notice of one who, in defiance of seemingly adverse circumstances in early life, has risen to stations of official prominence and responsibility. Our country, under the benign influence of her admirable republican institutions, has furnished many such instances, and it is certainly meet that all such should have an enduring record, if for no other purpose than to encourage others, under similar disadvantages, to struggle manfully and hopefully with the difficulties which they are called to encounter.

HON. BENNETT H. MARTIN,

OF TEXAS.

For many years before Judge Martin's appointment to the bench, he had an enviable reputation as a jurist. He had long ranked among the first lawyers of his State. Nor is it so easy to attain this position as is sometimes imagined by those who are unacquainted with the bar of Texas. The bar of that State in intelligence and acquirements, is perhaps inferior to that of no other State in the Union when its number is considered. Often does he who has left an older State, merely because there it was impossible for him to attain any but a second rate stand, as well as the young and aspiring lawyer who was prompted to emigrate with the hope and expectation of being able, at a single bound, to obtain eminence and distinction, experience keen disappointment in finding a bar, in talents and learning equal to the one he had left, and all the avenues to wealth and honor filled with men who would grace the same positions anywhere. In vain will the young lawyer expect to attain wealth or distinction without labor and toil. And in the pursuit of these often will he find himself jostled by others equally eager to reach the goal. If the attainment of these be his object he must gird his loins and buckle on his armor for the contest that must ensue, and strong must be his arm and keen his weapons, if he is not occasionally foiled. The advantage to a young lawyer in emigrating to Texas is not that he will not have to labor to succeed, nor have talents and learning to contend against, but that he will be able to take a more even start. In the older states there are every where old lawyers who have the confidence of the people, and almost a monopoly of business, in consequence of their age and long experience. And a young lawyer has but little chance until they die or retire. Hence, it is late in life before many can attain that position to which their learning and talents entitle them. Not so in Texas. Here, people meet together from every quarter of the Union ; at first they are all strangers to each other, and whatever be the positions they have elsewhere occupied, they must here make new acquaintances and friends, and show themselves entitled to confidence and consideration. The young start upon equal footing with the old, and if possessed of equal talents and learning, come into notice equally as early. But here, as well as elsewhere, the great qualities which will sooner or later command success, are energy and perseverance. Many coming to this State with high hopes, finding that it is as necessary here as in any country under the sun to rely on their own resources and exertions, and that to accomplish any thing they must be up and doing, battling manfully against every difficulty presenting itself, become disgusted and dissatisfied with the country and the people. They are too impatient to abide their time. They spend too much time in dreaming and building castles, and too little in action —prompt, energetic action.

The ancestors of Judge Martin originally came from France. They fled from the civil and religious persecutions in that country during the

reign of Louis XIV., and came to America at the same time with the ancestors of Francis Marion, who was so distinguished as a partisan and patriot in the annals of the American revolution. Most of those who fled from those persecutions sought an asylum in the then wilds of America, and settled in South Carolina. Martin's ancestors, however, settled in Virginia, on James river, at a point, long and perhaps still known as Martin's Neck. The family name, Martin, is but a corruption of the French, Montaigne, a name which figures in the history of the religious persecutions of France.

Bennett H. Martin, the subject of this memoir, was born in Virginia, Albemarle county, on the 16th of April, 1779. His father, Peter Martin, was the eldest son of John Martin, of Goochland county; his mother Elizabeth, the daughter of Col. John Henderson of Albemarle. Both of his grandparents were active partizans and distinguished patriots in the struggle of the colonies with the mother country for independence. They were taken prisoners and long kept in confinement by the enemy. Peter Martin also served under Gen. Washington, and was severely wounded.

When Bennett H. was about eight years old his father moved to Kentucky, then a wilderness, and settled on the south side of Green river, in Warren county. At that time the population was sparse, scattered over an immense extent of territory. The country afforded no facilities for education. None could give their children a thorough education who were not able to send them to the Middle or New England States. Now and then some idler would come along and teach a school for a few months to get money to continue his peregrinations. Peter Martin was in only moderate circumstances, and had a large family of children, eighteen in number, mostly daughters, and consequently was unable to bear the expense of sending his children off to school. Availing himself, however, of such opportunities as presented themselves, he sent Bennett to school in the neighborhood, in all some twelve, and not exceeding eighteen months, and this at times far distant from each other. And these were the only opportunities which Judge Martin ever enjoyed for an early education.

At the age of sixteen, restless and ardent, he determined to seek his own fortune. He was ever devoted to his sisters, and believed the estate of his father should be divided between them alone, and the sons left to shift for themselves. For himself he was resolved that such should be the case, and that he would never claim nor receive any part of the patrimony which he would inherit. This resolution he has faithfully kept. Actuated by such motives and sentiments, he determined to leave friends, kindred, and all the endearments of home, and seek a residence in the wilds of Alabama. For once, and only once in life, he disregarded the wishes and authority of his parents. In order to defray his travelling expenses he hired himself as a teamster to an emigrating company, and drove a wagon to the then new village of Huntsville. Here he found himself an inexperienced boy of sixteen, without friends to advise, or money. But with a promptness always characteristic of the man, he did not long remain inactive. He bound himself apprentice to a brick mason, and served out his time faithfully. Long, however, before the expiration of the time specified in his inden-

tures, he became proficient as an expert workman, and a great favorite with his master and the community. For ten or eleven years he worked laboriously at his trade, sometimes as a journeyman, but more frequently as master workman. But during this time he saved no money, nor accumulated any property. In his disposition he was wild and reckless, and seemed to have little or no appreciation of the value of money. With no disposition to hoard up wealth, he had a heart alive to all the nobler sympathies of humanity, liberal to a fault, responsive to all the calls of charity, real or pretended, and too impulsive to stop to inquire whether the claims which were pressed upon him were just or not. And such has been his character through life. He has never learned to refuse a favor, no matter who asks. Of him it may be truly said, Ask and you shall receive.

Thus for many years he toiled at his trade, enjoying the reputation of a skillful mechanic and honest man. He however felt within the promptings of a lofty ambition, and, like a caged eagle flapping his pinions in vain against the iron bars of his prison, he sought to rise to eminence. To do this it was apparent he must improve his education, for at this time he could but read, and hardly write his name legibly. In the winter of 1827–8 he visited Nashville, Tennessee, where his eldest brother, John H. Martin, Esq., then an estimable and highly esteemed citizen, and an eminent lawyer, enjoying a most extensive and lucrative practice, resided. At his suggestion Bennett resolved to study law. At this time his literary acquirements amounted to nothing, having been all his life upon the very frontier of the country, he had never had any opportunity to improve himself. The only books he had ever read were "The Children of the Abbey," and "Weems's Life of Marion." By these, however, he had acquired a taste for light reading. He had now not only to study law, but history, geography, rhetoric, &c. He at once commenced with a determination which nothing could shake, a resolution no difficulties could appal. It soon became a labor of love, new fields of pleasure and enjoyment were opened to him, to which he had hitherto been a stranger. History and law books were devoured with the avidity of novels. His industry soon enabled him to sweep away, like cobwebs, those difficulties which at first encompassed him and retarded his progress, the want of a thorough education and habits of study. He allowed himself only a year for preparation. Only five or six hours out of the twenty-four did he allow himself for sleep. Though a large and powerful man, weighing 180 or 190 pounds, he was soon reduced to 140. At the end of the year he applied for license, and after examination received it from Judges Peck and Stevant.

At this time the territory of Arkansas had just come prominently into notice. With his license in his pocket, Martin determined to make his debût as a lawyer in this then land of promise. Accordingly his saddle-bags were soon packed, and he took deck-passage on a steamboat, not having sufficient money to take a passage in the cabin, and landed at the mouth of White River, then almost the only known inlet into the new country. Learning that there were no steamboats ascending this river, he at once hired himself as a hand upon a keel employed by the United States in emigrating the Cherokee Indians, and with a pole pushed his way up to the "Old post of Arkansas," thence

walked on foot to Little Rock, with a body of emigrating Cherokees. He became acquainted with the Indians, and especially with their leading men, and was a great favorite. On account of his great popularity with them he was long known among his friends by the soubriquet of "Cherokee Chief." This acquaintance afterwards proved of great advantage to him, for he was employed by them in many important suits they had in the territory of Arkansas, and received large fees. He was also employed by an order of the Cherokee Council, as Attorney for the nation, in business they might have in the territory of Arkansas. Of this he was notified by Gen. Sam. Houston, Secretary of the Council, and now Senator in the Congress of the United States from Texas.

After his settlement in Crawford county, in June, 1829, he commenced in earnest the practice of the law. His elegant manners and fine appearance at once impressed all with confidence in his ability. And from his age it might be reasonably inferred he had had much experience in his profession. Yet he had never had a single case, had never drawn a single declaration, had never made, nor attempted to make a public speech. He knew what expectations were excited, and what impression his appearance had made; he felt that much, if not every thing, depended upon his first effort. Elegant in his address, prepossessing in his appearance, dignified in his manners, and above all, diffident and unassuming, he is the last man to attempt to create false impressions as to his own attainments by boasting or trumpeting his own merits, yet he did not feel it incumbent upon himself to make known his inexperience, but upon this subject maintained a masterly silence.

Only a short time elapsed before he was afforded an opportunity of showing what he was. There are certain times in all new countries when litigation seems to rage like an epidemic; such was the case at this time in Arkansas. Society was in a ferment. The bar of that State was at that time filled with an array of genius, learning, and talent rarely surpassed any where, some of whom have since risen to great eminence as jurists and statesmen. Of these, the most prominent were Robert Crittenden, a younger brother of the Hon. John J. Crittenden, now Attorney General of the United States, afterwards the leader of the Whig party of Arkansas, and one of the brightest geniuses and purest men our country ever produced, now long since dead; Chester Ashley, long a Senator of the United States, a man of great learning and talents, William Cummings, one of the first jurists in the West, Albert Pike, whose reputation as a poet and jurist is national, Absalom Fowler, now United States District Attorney for the State of Arkansas, O. M. Wheeler, now one of the Judges of the Supreme Court of the State of Texas, Daniel Ringo, and others but little less distinguished. Such were the men that Martin had to combat, rivals worthy of the steel of the most gifted.

The case in which he was engaged was an action of trespass, and his clients a widow and orphan. Two of the ablest lawyers of the State were employed by the defendant. The case enlisted all the sympathies of Martin's noble nature, and excited general interest in the community. It was his first case. Days were employed in preparing the

declaration, and quires of paper consumed before he could please himself. He was in a land of strangers, with none to assist or advise him; he knew much depended on his management of this case. He felt as a lawyer never feels but once in life; he felt, doubtless, as many others have felt under similar circumstances, but more intensely; for he had gone to the bar with less experience than young lawyers usually have when they commence practice. The jury were empanneled, the case opened, and evidence gone through with, when he attempted to address the jury. For a time every thing was confusion, all ideas of law or of the facts of the case had taken the wings of the wind, but he continued to say something, he knew not what. In speaking of it now, he says all he could ever recollect of the first of his speech, was that after he had been speaking, or trying to speak, for some time, he noticed that the whole jury, rude backwoodsmen as they were, were in tears, whether sympathizing for the speaker or his clients was doubtful. It however gave him confidence, and relieved him of his embarrassment. He read in the countenance of the jury triumph and success. To the astonishment of those who heard the evidence and knew the lawyers he had to meet, he obtained a verdict for his clients. The effort at once confirmed the high expectation his appearance had excited, and at once he took and maintained a stand among the ablest lawyers of that State. His practice soon became lucrative, and he very popular. His forte was as an advocate before a jury. As a lawyer in criminal cases he had no superior, and few equals; and in these he was invariably retained in the defense. In a very few months after he made his debût at the bar, he was elected District Attorney by the people, and held this office for several years. About the same time, in the fall of 1829, he was elected Colonel of the militia of Crawford county, a title by which he was known until he was appointed judge. At this time the territory of Arkansas was divided into two parties, then known as the Sevier and Crittenden parties, the former supporting the administration of Gen. Jackson, the latter opposing it. Sevier was at the head of the one, and Crittenden of the other. It was sometime after this before they assumed the names by which they have since been known, Democratic and Whig. The Sevier party, assisted by the influence, patronage, and overwhelming popularity of Jackson, was then, as the democratic party has ever been in that State, triumphant. In 1833, Martin was a candidate for the legislature upon the Crittenden ticket, and notwithstanding that party was in a minority, he was elected. He was run by his party for Speaker of the House of Representatives, but his party being in a considerable minority, he was defeated. During this session he was regarded as the leader of his party, and a prompt and able debater, and a practical legislator.

In 1837 he was again returned to the legislature, and again run and defeated for Speaker, for the same reason as before.

Whilst in the legislature, he foresaw and foretold the disastrous consequences which would result from the policy which then prevailed in reference to the incorporation of State Banks. He regarded institutions chartered under the name of banks, based upon anything but a gold and silver basis, fictitious capital, as but swindling machines, bound sooner or later to fall, and only calculated to deceive and ruin the inno-

cent and unsuspecting. Ruin and bankruptcy did succeed the sudden and unnatural inflation of the currency, caused by the banks which were chartered by the legislature of Arkansas. Hundreds left the State, nor has she yet recovered from the ruinous, disastrous consequences of her unwise legislation. The result of her then policy has been to ruin her citizens, to bankrupt her treasury, and to prostrate her credit at home and abroad, and to retard her progress and prosperity at least a quarter of a century. But Martin did not then, nor has he ever maintained an indiscriminate opposition to all kinds of banks, under all circumstances. Because the banks of Mississippi and Arkansas failed, and brought down ruin and desolation upon thousands, he does not think banks cannot be placed upon a solid and sure basis, and made useful and beneficial, not only to commerce, but to agriculture, and every other branch of industry. That the fool's house, which was built upon the sand, when the storm came, and the rains descended, fell, carrying with it ruin and death upon its inmates, is no reason a wise man should not build him a house to shelter his head from the storm, if a sure foundation shall be found.

But when the crisis came, as it did, Martin, with others who had opposed the party which produced it, was involved in the ruin, and the hard earnings of ten years of toil and industry were swept away in the general flood.

Soon afterwards, in the year 1841, he moved to Texas and settled in Clarksville, Red River county. Since that time he has abandoned politics. As a politician Judge Martin has ever been firm and consistent, liberal in his views and tolerant to those who differed with him; too honest to sacrifice principle for place, opinions honestly entertained for popularity—always more popular than his party, which has ever been in the minority in his State and county, yet he has usually been elected when he has sought political favor.

Upon his settlement in Texas he at once entered upon an extensive and lucrative practice. He soon acquired great popularity and an enviable place in the affections of the people of Northern Texas, the part of the State in which he had located. Shortly after the annexation of Texas the citizens of Harrison county, in a public meeting, nominated him for Lieutenant Governor, but he declined the nomination and has not since asked any office.

In 1841 and '42 the settlements in Texas were much annoyed by the continual attacks and depredations of Indians. A feeling of alarm and uneasiness pervaded a large portion of the country. Upon or near the frontier this feeling was more intense. Murders and robberies by the Indians were of frequent occurrence; and when one happened, rumor, with her thousand tongues, magnified all the circumstances connected with it, and filled the whole country with consternation. Persons living upon the frontier, exposed to these frequent collisions with the merciless savage, and acquainted with his deeds of butchery and barbarity, feel no sympathy for the red man and have no appreciation of the sentimentality which some writers, far remote from the scenes of these bloody tragedies, are accustomed to express for the Indians. They regard the noble qualities, which are sometimes ascribed to him, as but a fiction of the imagination or the conclusions of a morbid sensi-

bility, because contrary to their own experience and knowledge of the Indian character. Whatever may have been his former feelings, a few collisions with the wild Indian seldom fail to fill the breast of the frontier settler with a hatred so deep, so bitter, that he feels no more remorse in putting him to death than he would in killing the vilest reptile that crawls upon the earth, because, in so doing, he feels that he is doing something to save the wife of his bosom and his helpless babes from the cruel tomahawk and scalping-knife, or retaliating the recent murder of some family, or ridding himself of an implacable and deadly enemy, one whom no league of friendship can bind, no kindness conciliate. Such was the feeling and general uneasiness of safety which pervaded the whole country in 1842. During the session of the District Court in Fannin county of that year, a marauding band of Indians approached within a few miles of the Court House and murdered a family. The whole country was alarmed. Nobody felt safe. No man knew when he left home in the morning that he would not find his wife murdered when he returned. Volunteers were called for to scour the country and take vengeance upon the Indians. Fourteen only came forward. Of these Martin was foremost, and the only lawyer out of ten or twelve who were in attendance on Court. Brave and generous, he was ever ready to defend the weak and defenceless. These fourteen ranged themselves under the command of Capt. Jesse Stiff, then distinguished as an Indian fighter. At a distance of about fifteen miles from the Court House, the Indians, about fifty in number, were discovered camped on the edge of a large prairie, about a quarter of a mile distant. They were undiscovered by the Indians. A consultation was called as to the best manner of attack. Martin and Col. Montague, also a distinguished woodsman and Indian fighter, proposed to crawl upon and take them by surprise. But this plan was overruled—men were not willing to dismount and leave their horses, and, besides this, it was supposed the Indians had out sentinels, and that a surprise was impracticable. The plan adopted was to attack them by storm—to rush at full speed upon them and attack them before they could prepare. A hammock of Bois d'Arc (a growth celebrated for its qualities for making hedges on account of its numerous thorns) and green briers intervened between them and the Indian camp and favored their secret advance. The hammock was almost impassable. But no sooner was the plan adopted than they all entered it without any order or regularity, each struggling to be foremost. Martin, mounted upon a splendid charger, soon outstripped all of his companions, and emerged from the hammock a long distance ahead of the foremost. He had lost his hat, and the thorns and briers had stripped him of almost every article of clothing; the blood was trickling down his face from the effects of the Bois d'Arc. Too impetuous and too much excited to be governed by the dictates of prudence he hesitated not a moment, but rushed like a thunderbolt in the midst of the Indian camp, which was situated a little under an elevation of the prairie at a distance of one hundred and fifty or two hundred yards from the hammock. His horse had now become ungovernable, rearing and plunging. He at once dismounted; the Indians were panic-struck, and stood motionless for a moment. Levelling his gun at one armed with a bow and quiver, and, from his

appearance, chief of the band, he discovered, for the first time, to his own imminent danger, that the hammer of his gun-lock had been broken off and lost in coming through the thicket. Fortunately his friends emerged from the thicket and came in full view of the Indians at this moment, and they instantly took to flight leaving their plunder, some shields and three guns. Martin threw down his gun, seized one that the Indians had left, mounted his horse and pursued them alone some distance. One of the Indians, discovering him coming alone, wheeled and faced him, presenting his gun. Discovering this, and being unable to manage his horse, he threw himself off and shot and killed the Indian. The Indians were so frightened that that part of the country has been troubled but little by them since. For this deed of daring the company unanimously voted him one of every article taken from the Indians: a gun, a shield, a shot-bag, a belt, and many other trinkets and ornaments; the rest of the plunder taken from the Indians was brought into the settlements and sold at auction for seven hundred dollars, which was divided equally among the fourteen volunteers.

Other deeds of daring might be mentioned, but this will suffice to show the insensibility of the man to danger under excitement. A reckless disregard of personal danger has been a distinguishing feature of his character through life.

When the Mexican war broke out, and Gen. Taylor called upon Texas for volunteers, there were many young men desirous of responding to the call, but were unable to mount and equip themselves as it was necessary for them to do. Judge Martin came forward and proffered his assistance to all who needed it. He loaned his means and his credit for this purpose, almost to a ruinous extent; for his means, advanced, in many cases, he has not to this day received any return whatever. Frequent acts like this have kept him comparatively poor through life, notwithstanding an extensive and lucrative practice. Thousands of his hard earnings have gone through a misguided liberality to persons totally unworthy of assistance.

At all times bold and fearless in the expression of his opinions, it is not surprising that he should have some enemies. For who has risen from obscurity to eminence amidst great rivalry who has not? Though often an object for the envenomed shafts of calumny, malice has never dared to attack his integrity or the purity of his motives. Purity of character however, is no shield against the malignity of the slanderer's tongue; for was not our Savior, whilst engaged in his sacred and holy mission, not only accused but tried and condemned for blasphemy?

But Judge Martin is not free from faults, and who is? Mortals are not perfect; all men have their failings and imperfections. To represent them differently, is to represent what has not been since the fall of man, and, perhaps, will never be. His faults and the errors of his eventful life, have grown out of the impetuousness of his quick temper and the impulsiveness of his nature. In early life he was wild and reckless, and, at a more mature age, occasionally dissipated; but long since has he made ample atonement for his past errors by an earnest, zealous, and effective advocacy of the cause of Temperance. He is decidedly her ablest and most effective champion in that State.

As a lawyer, no man ever enjoyed more popularity with those who

knew him. He was disposed to disregard mere quibbles and nice technicalities, and desired to see every case stand or fall on its broad merits. He was always willing to risk his own on such. He never resorted to tricks or subterfuges to ensure success, and held in contempt all who did. He was, perhaps, more powerful before the jury than the court. His oratory is of that kind which usually captivates a jury. Seldom will he fail to enlist at least their sympathy, if not their verdict, for his client. Always himself above suspicions, plain and candid, his mere assertion has great weight with jurors in spite of themselves. There is a thrilling sincerity in his manner, that cannot be easily resisted. His oratory is different from any described in the books; it is original and peculiar. He never uses quotations, nor often refers to authorities to sustain his argument; seldom indulges in flights of fancy or rhetorical flourishes. He comes at once to the subject, and by a masterly statement and thrilling sincerity of manner, removes any prejudices which might have been entertained, and wins the sympathy and judgment of his auditory. There is no mere declamation, no bombast in his speaking. Simplicity is the chief characteristic of the man, and especially is it characteristic of his speaking. There is a plainness and directness about it which makes him always intelligible to the dullest comprehension. His keen and quick perception instantly detects the weak points of his adversary, and they are laid bare as with a dissecting knife. His unerring sagacity also enables him to seize, and set forth prominently, the strong points of his own case. He speaks better than he writes, and speaks with little or no preparation as to what he is to say, relying upon the inspiration of the moment; he warms up and rises in grandeur as he progresses with his subject.

But it is chiefly as a private citizen he is to be admired. Estimable in all the relations of life; strictly moral, his influence is actively exerted in aiding whatever is calculated to promote the good of society. All who become well acquainted with him in private life, whatever may have hitherto been their prejudices, become his friends. For whatever may be their own character, it is impossible not to admire his gallantry, his disinterested generosity, his liberality, his humanity, and polite and courteous bearing towards all persons. There is something striking in his fine appearance, and it is impossible to see and not notice him, and equally as impossible to forget him, for there is an individuality about him not easily confounded with that of another.

As a judge he is learned in all the technicalities of the law and well versed in its fundamental principles. He always refers rather to principle and the legitimate deductions from it, than to precedent; is never satisfied with any authority, however high, without the reason upon which it is founded. In his manner he is polite, and courteous in his bearing. In 1848, Governor George T. Wood sent into the Senate of the State his nomination for Judge of the Ninth Judicial District. The nomination was confirmed, and since that time he has held, and still holds, that office, universally esteemed and admired for his goodness and eminent fitness for the position. And may he long live to wear his honors and do good! Little more than twenty years ago,

he who is now known far and wide as the just judge, the upright man, the eminent jurist, was a poor illiterate brickmason, without friends or money. He who once hired himself as a teamster and drove a wagon from Kentucky to Alabama, and afterwards was a common hired hand upon a flat boat, is now an accomplished gentleman, wielding an immense influence, and that too for the good of society. This is what energy and an indomitable will has accomplished. He never regarded anything which is honest as degrading or beneath his dignity.

He has been twice married; has survived both of his wives. As a husband he was tender, affectionate and devoted. He has no children.

HON. LOTT WARREN,

JUDGE OF THE SUPERIOR COURTS OF THE SOUTH-WESTERN DISTRICT, GEORGIA.

Examples that impress force of character on all who study them, are worthy of record. By a few general observations we might convey some idea of the Hon. Lott Warren as a jurist; but, as he unites in his composition so many elements of a solid and practical nature, which raised him from obscurity to his present elevation, we shall indulge somewhat freely in particulars, in order to incite sympathy with his fortunes, and to encourage youth.

His ancestors came from England, and settled in Virginia, from whence his father, Josiah Warren, removed to North Carolina during the Revolutionary war, and married Nancy Doty, in the county of Onslow. After the birth of two children, his parents settled in Burke County, Georgia, where Lott, the eleventh child, was born on the 30th day of October, 1797. From Burke they removed, in 1804, to a place four miles below Dublin, on the Oconee River, in Laurens County.

In his eighth year the subject of this memoir went to his first school, with six brothers and sisters, who walked daily upwards of three miles, to obtain what knowledge Mr. Matthew Burns, an Englishman, could impart during his sober intervals. The school lasted nine months; but, at the end of two quarters, Mr. Warren withdrew his children, owing to the intemperate habits of the teacher. Being a pious member of the Baptist Church, and a magistrate, Mr. Warren had a peculiar dislike to drunkards; and, from his condemnation of that vice, his son, of whom it is our privilege to speak, no doubt imbibed that antipathy to alcoholic drinks which has since marked his career. Residing in a wilderness frontier, distant from other settlements, Mr. Warren was frequently called upon, as a justice of the peace, to unite persons in wedlock at his own house. On such occasions the visiting party brought their own wine or brandy, as the case might be, and used it among themselves; no member of the household participating.

In February, 1809, Mr. Warren and his wife both died. It is due to the memory of this excellent man to say, that he was an humble and zealous Christian, and a faithful magistrate. His very name was

a terror to evil doers. He committed the guardianship of his sons Lott and Eli, (the latter now Gen. Warren, of Houston County,) to the Rev. Charles Culpepper, who had married his eldest daughter. Mr. C. was a minister of the Baptist Church, and brother of the Hon. John Culpepper, formerly a representative in Congress from North Carolina. After the season for working in the crop was over, LOTT passed a few weeks at school, under Mr. Joseph Culpepper, in 1809. His guardian removed to Wilkinson County in 1812, then a rough frontier settlement, and was sent to school to Mr. Elkanah Powell, (who was afterwards killed in Twiggs County, by a man named Summers.) During the six months under Mr. Powell's tuition, our pupil learned to write, and made some progress in arithmetic. His next teacher was Mr. James Fitzgerald, (now a venerable citizen of Houston County,) and, after the usual labor in the farm, he again went to Mr. Powell's school. While there an incident occurred, which, as it had a controlling influence on the mind of young Warren, is worthy of special notice.

A man was charged with forging a note on Gov. Irwin, and his trial came on in Wilkinson Superior Court, before the Hon. Stephen W. Harris, Judge. The prosecution was sustained by Col. Abednego Franklin, Solicitor-General, assisted by Col. Moses Fort. The prisoner was defended by Col. Seaborn Jones, now of Columbus. Gov. Irwin was sworn and examined as a witness. His praise was in all the land. By leave of his teacher, young Warren was present as a spectator, the first privilege he had ever enjoyed of witnessing a trial in court. Standing barefoot, a coarse, ungainly lad of fifteen, clad in homespun, with wool hat in hand, gazing with intense curiosity, from a window, on the scene before him, all silence to hear the Governor deliver his testimony, what was his astonishment to hear Col. Jones cross-examine the witness with as much boldness and rigor as if he had been only a common man! Speeches of counsel and the charge of the court followed; the whole proceeding filled him with an irrepressible desire to be a lawyer. On his return home at night, he mentioned the subject to his sister, who expressed surprise and sorrow, raising two principal objections: first, that he had not the means (his patrimony being less than $500) to prepare for the bar, and in the next place she did not consider lawyers sufficiently moral. He replied that he must have an English education in some way, and as to any supposed vices prevalent among lawyers, he would endeavor to be an exception. His sister was nothing convinced, and disposed of his request without even consulting his guardian. She lived to see him, in less than twenty years afterwards, Judge of the Southern Circuit.

In the spring of 1816, young Warren entered as a clerk in the store of Amos Love, a pious Baptist, to whom Mr. Culpepper ministered in Dublin. Owing to bad health, he left Dublin in the fall, and became clerk to S. & R. Worrel, in Irwinton, near his sister, and shortly returned to Mr. Love. Within a few weeks he was drafted into the militia service for the Seminole War; and in February, 1818, was elected Second Lieutenant of the Laurens Company, commanded by Capt. Elijah Dean.

This was his first promotion; and highly gratified, no doubt, was he

with his martial honors on the eve of an expedition. Not for the purpose of showing any military talent or conspicuous deed in arms, to entitle Lieut. Warren to public admiration, do we attempt a brief sketch of the campaign in which he served; but to preserve a few incidents, of which he is, perhaps, the best if not the only living witness, in relation to the burning of the Indian town of Chehaw, near the present site of Starkville, Lee County. It was the burning of this town that led to an *animated* correspondence* between Gen. Andrew Jackson and Gov. Rabun.

After Gen. Gaines retired from Amelia Island, he took command of the State troops which had been ordered out by the Governor, and among them a company of Chatham militia, together with the Laurens and Wilkinson Companies. They were ordered to the Big Bend of the Ocmulgee River, below Hartford, under the command of Major Clinton Wright, of the U. S. Army, to discover the course of the Indians, who had been committing murders and robberies on that frontier. After organizing the guard, Major Wright, pointing his sword toward him, said, "Lieut. Warren, I shall look to you for the discharge of the duties of Adjutant of this detachment. Come to my fire as soon as possible." The young subaltern went accordingly, and in vain alleged his ignorance of duty as a reason why he should be excused from the task. But the reply was, "You have nothing to do except to obey orders." Thus forced into the position, Lieut. Warren performed its labor actively, much to his own improvement, and to the satisfaction of a meritorious officer, who was drowned soon afterwards in attempting to cross Flint River on a raft.

From Big Bend, by way of Hartford, the command marched on the Blackshear road to Fort Early, where it crossed Flint River in the night, and proceeded to destroy the Hoponee and Philemi towns, fifteen or twenty miles west of the river. Evidence had been collected implicating these towns in the atrocities on the frontier. Arrived within a few miles of the Chehaw town, which was supposed to be Philemi, a council of war was called, and it was determined to send forty of the best mounted men to reconnoitre. They discovered large herds of cattle that had been stolen from the whites on the Ocmulgee, and an Indian minding them. Captain Obed Wright, of the Chatham militia, who had volunteered his services, had positive orders from the Governor to destroy the Hoponee and Philemi towns, which were known to be hostile. Capt. Wright then formed the command into column, and gave express orders that the women and children should not be hurt, and that a white flag should be respected. Within half a mile of the main town a gate was opened by an aged warrior, and the troops passed in. Every thing was quiet. The children swung in their hammocks, and the women were beating meal. The cavalry in front fired several pistols to the left, killing the warrior who opened the gate. Capt. Dean ordered a charge, but Capt. Wright countermanded the order. Two Indians were seen loading their guns. About this time Howard, a friendly chief, was killed, while holding up a white flag. The men dashed off in pursuit of the Indians, who fled in every

* See White's Statistics of Georgia, 488–'93.

direction. Lieut. Warren was ordered, with eighteen men, to burn the cabins. First removing whatever was valuable, two or three cabins only were burnt. The command then returned to Fort Early that night, sold the plunder next day, and divided the spoil. Lieut. Warren refused his portion.

It was the opinion of all concerned at the time, that it was Philemi town which had been destroyed. The chief Howard, and two other Indians who placed themselves in the power of the troops, were murdered in cold blood. But the error had been committed rashly, under excitement, and could not be repaired. The companies were soon discharged, and returned home. Lieut. Warren resumed his situation in Mr. Love's store.

In a few days, Major Davis, of the U. S. Army, called on Lieut. Warren in Dublin, and stated that he had orders from Gen. Jackson to arrest Capt. Wright. Lieut. Warren accompanied him to the hotel, where he introduced him to Capt. Wright, who at once submitted. It may as well be remarked here, that Capt. Wright had not been mustered into the service of the United States, and was, of course, not subject to the orders of Gen. Jackson. His arrest, by the authority of the latter, was therefore regarded by Gov. Rabun and the Justices of the Inferior Court of Baldwin county, as a usurpation of power. After the discharge of Capt. Wright, upon *Habeas Corpus*, at Milledgeville, the Governor had him immediately arrested for disobeying orders, in not destroying the Hoponce and Philemi towns, as well as Chehaw, but, being at liberty on his parole of honor, Capt. Wright escaped.

We close this part of the memoir by a few extracts from the correspondence between Gen. Jackson and Gov. Rabun, as relevant. Referring to the outrage on the Chehaw village, Gen. Jackson in his letter of May 7, 1818, says:

"Such base cowardice and murderous conduct as this transaction affords, has no parallel in history, and shall meet with its merited punishment. You, sir, as Governor of a State within my military division, have no right to give a military order whilst I am in the field; and this being an open and violent infringement of the treaty with the Creek Indians, Capt. Wright must be prosecuted and punished for this outrageous murder, and I have ordered him to be arrested and confined in irons, until the pleasure of the President of the United States is known upon the subject. If he has left Hartford before my orders reach him, I call upon you, as Governor of Georgia, to aid me in carrying into effect my order for his arrest and confinement, which I trust will be afforded, and Capt. Wright brought to condign punishment for this unparalleled murder."

In his reply of June 1st, after referring to the communication of Gen. Glascock, on which Gen. Jackson based his censure, Gov. Rabun says:

"Had you, sir, or Gen. Glascock, been in possession of the facts that produced the affair, it is to be presumed, at least, that you would not have indulged in a strain so indecorous and unbecoming. I had, on the 21st March last, stated the situation of our bleeding frontier to you, and requested you, in respectful terms, to detail a part of your overwhelming force for our protection, or that you would furnish supplies,

and I would order out more troops, to which you have never yet deigned to reply. You state, in a very haughty tone, that I, a Governor of a State under your military division, have no right to give a military order whilst you are in the field. Wretched and contemptible indeed must be our situation if this be the fact. When the liberties of the people of Georgia shall have been prostrated at the feet of a military despotism, *then, and not till then*, will your imperious doctrine be tamely submitted to. You may rest *assured* that if the savages continue their depredations on our unprotected frontier, I shall think and act for myself in that respect."

We have introduced these pungent passages, not only as a part of history, but to prepare the way to a graceful scene in Congress, twenty-four years afterward, between Ex-President Adams and Judge Warren, which we shall describe at the proper time.

Not having relinquished his design of becoming a member of the legal profession, Mr. Warren applied himself six months, in 1818, to a grammar school, and about the same term in 1819 to another school, kept by Dr. William A. Hill, at the residence of Gen. David Blackshear. Soon thereafter he was employed as supercargo, or agent, on a flat boat, to keep the accounts of the commissioners of the Oconee River, to buy provisions for the hands at work in cleaning out the river, and to disburse money set apart for this and other purposes connected with the inland navigation of Georgia. Having frequent intervals of leisure, he read Blackstone's Commentaries through while on the river, and before retiring from his situation, in February, 1820. He then entered the law office of Daniel M'Neel, Esq., in Dublin, and diligently applied himself to legal studies, not, however, with such entire devotion as to exclude matrimony from his thoughts. An attachment formed at school, was crowned, October 19th, 1820, by his marriage with Miss Jane Desaubleaux, orphan of a French gentleman who came to the United States during the Revolutionary War, and who constituted Gen. Blackshear the testamentary guardian of his daughters. The patrimony of his bride for a long time was unproductive, but at length became valuable from the character of the property. Her guardian was distinguished for wisdom and integrity. At the mention of his name, the writer, who knew him well, cannot avoid paying a tribute to his memory, which his long and faithful public services more than justify.

Gen. Blackshear was a member of the Legislature of Georgia in 1796, and co-operated with Gen. James Jackson in the repeal of the infamous Yazoo Act of the previous session. In 1801 he was a Presidential Elector, and voted for Mr. Jefferson—an honor which was bestowed on him at each Presidential election, until his death, July 4, 1837. For about twenty years he was a Senator from Lawrence county; and, owing to his vigilance in protecting that instrument from abuse, he was called the "Old Constitution." In strong common sense in the practical affairs of life, in the style of his conversation, and even in physiognomy, he resembled Dr. Franklin.

At March term, 1821, of Lawrence Superior Court, Mr. Warren was admitted to the bar. He immediately opened an office in Dublin, and

attended several of the Courts in the Southern and Middle Circuits, with a fair prospect of business.

In 1823 he was elected a Major of Battalion in the militia, and in 1824 a Representative in the Legislature from Lawrence county. With a view to improve his situation he removed to the village of Marion, Twiggs county, in February, 1825. A vacancy occurring in the office of Soliciter General, by the death of Thomas D. Mitchell, Esq. (in a duel), in March, 1826, Maj. Warren was appointed by Gov. Troup to execute that office until the meeting of the Legislature, when he was elected, and served out the term, until November, 1828. He declined being a candidate for re-election.

While in office, it became his duty to prosecute several Indians in Thomas county, for murder. The evidence established their guilt, and they were convicted. On motion of the Solicitor General, the prisoners were brought up for sentence. Judge F. gave them a talk, which was translated to the Indians, informing them that they must soon die with a rope round their necks, for killing a white person. Then appointing the time for their execution, the Judge gravely remarked, that it was unnecessary to invoke the usual blessing on the prisoners, as they did not understand English! The same Judge once severely lectured a Justice of the Peace, who had been convicted of assault and battery, telling him how disagreeable it was to the Court to inflict the punishment which his example made necessary; and after visions of the penitentiary and of a ruinous fine had caused paleness and trembling in the poor magistrate, the Judge read his sentence as follows: "Whereupon it is ordered by the Court, that the defendant pay a fine of one dollar, and costs of prosecution, and be thence discharged." Mental distress was never more suddenly relieved.

About the time he retired from the office of Solicitor General, the intellect and energy of Maj. Warren began to attract public observation. He was employed in almost every litigated case on the Circuit. No one excelled him in zeal, and but few in strength, among his associates at the bar. He frequently came in collision with Shorter, Prince, Rockwell, Torrance, Strong, and other advocates of established reputation, and always sustained himself in argument. Mr. Warren was never eloquent, if flowery language, a cultivated voice, and classic gestures be indispensable to eloquence; but he was at all times interesting,—a close reasoner, with authorities well applied; and what was better still, he exhibited a degree of self-possession and common sense which often secured him victory in the jury-box over a competitor far more astute and pretending.

The people of Twiggs county elected him to the State Senate in 1830. Mr. Warren had always been a warm supporter of Gov. Troup, and was a member of the State Rights Party when a high Tariff for protection created a pregnant issue in the South. In his senatorial career of only one session, he was active in the preparation and advocacy of measures which he deemed for the public good. He exerted considerable influence in debate, and returned to his constituents with praise. The organization of the Cherokee Territory, which led to the imprisonment of the Missionaries, and the fruitless mandate of the Supreme Court to enjoin the execution of the Indian, Tassels, was the leading

topic of the session, and received the cordial support of the Senator from Twiggs.

In November, 1831, Mr. Warren was elected by the Legislature, Judge of the Superior Courts of the Southern District, for a term of three years. Although his manner of presiding was not altogether as affable and patient as some members of the bar desired, his decisions were in general satisfactory, from the sound reasoning on which they were based. Occasionally, when a question was raised, he embarrassed counsel by an intimation of his mind, yet seldom declined hearing the argument in full. It was evident, however, from his countenance, which he rarely attempted to control for effect, that his opinion had been formed, and that it was a useless consumption of time to combat it. In such emergencies, if counsel, gathering courage and fresh ideas from the necessity of the case, could succeed in impressing the Judge that his hasty conclusion was adverse to recognized authorities, a very patient hearing was accorded; and if he was really convinced of error, he always had the frankness to correct it in proper time. It has happened, that older members of the bar, entertaining a very liberal estimate of their own qualifications, and no extraordinary respect for those of the Judge, owing, no doubt, to his want of polish and urbanity,—have ventured to argue a point, contrary to rule, after the Court had pronounced its decision. To such experiments, he promptly gave a quietus by reminding counsel that the protection which the Rules of Court afforded the Bench, after a question had been decided, was not altogether nominal in his Court. On a few occasions, when even this hint was unavailing, and the attempt to argue was further persisted in, he has been known to order counsel to their seats.

Judge Warren never pretends to forget the obscurity and adversities of his youth; and while he manifests a due respect for the rights and feelings of others, he has never permitted any infringement of his own to escape rebuke. Soon after he settled in Marion, a gentleman, who felt himself aggrieved by the testimony of Mr. Warren before a committee of the House of Representatives, made a very conspicuous and disrespectful allusion to him, in his absence, at a public dinner. As soon as he was informed of it, Mr. Warren dispatched a note by a gallant friend, opening the way to explanation, or, that failing, to another resort usual among gentlemen who recognised the code of honor. Mutual friends interposed, and the affair was honorably adjusted. We mention this circumstance merely to show that Judge Warren has warm passions. His temperament is essentially sanguine. For the last twenty years, however, he has been a pious member of the Baptist church, and has kept his constitutional ardor more in subjection.

At the expiration of his judicial term, in 1834, without having placed himself in the power of a legislative majority opposed to him in politics, Judge Warren resumed the practice of the law. In January, 1836, he removed from Marion to Americus, and in 1838 was elected a representative in Congress, under the general ticket system. In 1840, the same trust was renewed by the people. On his motion, the one hour rule was adopted. He had seen such unnecessary waste of time for the sake of notoriety in discussion, and for selfish purposes on the part of members of Congress, that he resolved to correct the evil.

Guided by a strong will of his own, against the persuasion of many friends, he moved in the matter, and the one hour rule was incorporated into the forms of the House. Though much complained of by long-winded talkers, the rule still continues unrepealed, and will remain a proof of the sagacity and nerve of the mover.

The writer has before him no record of the congressional services of Judge Warren. In March, 1840, he delivered a speech in the House of Representatives, on the "Bill additional to the Act on the subject of Treasury Notes," from which we give an extract. Commenting on the remark in President Van Buren's Message, that, "In a country so commercial as ours, banks, in some form, will probably always exist; but this serves only to render it the more incumbent on us, notwithstanding the discouragements of the past, to strive in our respective stations to mitigate the evils they produce." Judge Warren said:

"This is the talk of this '*State-rights President*,' lecturing us on banks. Well, sir, what have we to do with banks? They are created by the legislatures of the different States. These legislatures have the right to grant or withhold charters without the permission of Mr. Van Buren. And, sir, they afford the only currency to which the people can have access. Why destroy the people's currency? It is to make the currency of the office-holders worth more. Again, sir, his partisans in the United States Senate have created a man of straw; and, in their Quixotic warfare against this creation of their own imagination, senators *sharply reprove* the States for having borrowed money, and built railroads, canals, &c. And now, sir, what is the pretext for this warfare against the States? Resolutions are introduced into the Senate, declaring it unconstitutional for this government to assume the payment of the State debts. These resolutions were met by the declaration, that no such thing had been asked for by the States. The administration partisans then say, in argument, that the distribution of the proceeds of the sales of the public lands and surplus revenue among the States, is an assumption of the debts of the States. And thus, sir, a censorious lecture is read to the sovereign States of this Union. If I were a member of a State legislature, I should probably oppose the creation of a large public debt for any purpose; but I should pursue such a course as the interest of the State in my judgment required, and should not think the State subject to such lectures. We should remember, sir, we are but part of a government which was created, and now exists, by the will of the States. This government should treat the State governments as venerated parents, and not as disobedient children, or insubordinate servants. The President has set the example, and his friends, his party, have followed in his footsteps."

Having previously referred to a scene in the House of Representatives, between Mr. Adams and Judge Warren, we shall state the particulars.

At the session of 1841–2, while the debate was progressing on the motion to strike out of the appropriation bill the salary and outfit of our Minister to Mexico, Mr. Adams expressed himself to this effect: That Congress had no power over the question of slavery in the states

in time of peace; but if a servile war occurred, and the military force of the government had to be called out for its suppression, that moment the whole subject came within the grasp of the government; and the commander-in-chief, by declaring martial law, would suspend the civil authorities, and by an official edict, might give freedom to the slaves of the South. At this stage of his argument, Mr. Adams referred to the course of General Jackson during the Indian war of 1818, when he notified the Governor of Georgia that martial law was proclaimed in his State, and that the civil should be subordinate to the military power. Mr. Adams eulogised, in very high terms, this act of General Jackson, and said that the Governor of Georgia was right in yielding to the claim.

As to the abstraction put forth by Mr. Adams, founded on any principle of public law, Judge Warren did not feel himself called upon to reply; but, when the State of Georgia, through an alleged submission of her executive to a high-handed military behest, was held up to the world as having recognized a doctrine alike wild in theory and destructive in its application, he courteously interrupted Mr. Adams in his speech. Having been personally familiar with the facts, Judge Warren disabused the distinguished member from Massachusetts in the version he had given of the affair between General Jackson and Governor Rabun, by stating, that the claim of authority advanced by the former, was promptly and successfully resisted by the latter.

This little episode in discussion was marked with proper civilities on both sides. What scope for reflection, and for eulogy on our political system, is afforded by this solitary incident! At the time Judge Warren was born, Mr. Adams was a Minister Plenipotentiary, appointed by President Washington. In 1818, he was Secretary of State, and his fame in letters and diplomacy extended over the civilised world, when the obscure merchant's clerk,—the humble lieutenant of a militia company, was executing orders for the destruction of the identical Indian town, which caused General Jackson to assert the power sanctioned in debate by this eminent personage. Let the imagination rest on the floor of Congress in 1842, where, near the venerable figure of the Ex-President, sat this same lieutenant! The one was born in high condition; and after more than a half century of public honors, he met the humble subaltern of the Chehaw expedition on terms of perfect equality as a representative of the people; that subaltern rectifying the historical error of John Quincy Adams! The subject is worthy of a painter for its moral sublimity.

We must draw this memoir to a close. While absent in Congress, Judge Warren was ably represented at the bar by his partner in the practice, William H. Crawford, Esq., son of the former distinguished Secretary of the Treasury—Georgia's candidate for President in 1824. From Americus he removed to his farm in Lee county, and from thence to the town of Albany, in Baker county, where he now resides. In 1843 he was elected Judge of the Superior Courts of the South-Western District, and re-elected in 1847 for a term which will expire in December, 1852.

In looking through the Reports, commencing in 1846, we find that ninety-eight cases have been taken from Judge Warren's Circuit to the

Supreme Court, of which forty-five have been affirmed, and fifty-three reversed on Writs of Error. This tribunal has done much to improve the administration of law in Georgia. When Judge Warren first came to the Bench, in 1831, every Circuit was a sort of judicial republic to itself, without any common regulator, though there was a convention of Judges which met annually to form Rules of Practice, and to which questions in the Circuit were often referred. The convention having no power to decide authoritatively, *advised* the Circuit Judge, who, though at liberty to adhere to his own decisions, generally adopted the voice of the convention. During his term, from 1831 to 1834, the associates of Judge Warren in this body were Crawford, Lamar, Strong, W. W. Holt, Thomas Warner, Law, Dougherty, and Hooper. In 1834 Judges Crawford and Lamar both died, and in 1851 Judge Strong sank to the tomb.

When we began this memoir we designed introducing the usual charge of Judge Warner to the Grand Jury, at the opening of each term, as on such occasions he was most faithful and explicit in complying with the requisitions of the Legislature in regard to certain offences; but, from the space already occupied, we must relinquish the attempt.

Judge Warren has only two children living; one, a married daughter, residing in Stewart county, and the other a son, who has been admitted to the bar, and is still a member of his household. For many years the Judge has acted a prominent part in the affairs of his church, frequently officiating in the pulpit, and is ever foremost in the promotion of Sunday Schools, Bible Societies, and other benevolent institutions. He has tender sympathies and a charitable heart. Avarice forms no part of his nature. His property, though not large, renders him independent. Much of his income has been expended in a generous hospitality. Preachers, religious persons of all denominations, and his friends generally, feel quite at home under his roof.

In person, the Judge is fully six feet high, and weighs about one hundred and ninety pounds. His forehead is large and round, eyes blue, and complexion fresh and sandy. He steps quick and is a little restless when sitting, unless his attention is much engaged. Owing to his kind feelings, which are manifest in his countenance, he does not always preserve that order in Court which a more austere visage and deportment would command. When the noise amounts to an interruption of business, he frequently alarms the bailiffs by threats of a fine for neglect of duty. Perfect silence then reigns for a moment, but soon the uproar is renewed, the Judge himself setting the example by some pleasantry with the bar.

As the style of "Lott Warren Division, No. —," in Sumter county, would indicate, the Judge is a Son of Temperance. His lectures on that subject are very interesting. In fact his whole time is occupied, in some way, in trying to benefit his fellow beings. In politics, he is strictly conservative, and prefers the Union as it is, to any change which might be proposed as a remedy for real or imaginary grievances.

We have endeavored to exhibit the character and qualities of Judge Warren with that fidelity which an acquaintance of twenty-five years enables us to exercise. His example ought to stimulate poor and

friendless youth to strike bravely, and bear up with fortitude, in the contest of life. If such shall be the tendency of this memoir, the writer will have accomplished his object.

HON. HENRY R. JACKSON,

OF SAVANNAH, GEORGIA.

Hon. Henry R. Jackson, Judge of the Superior Courts of the Eastern District of Georgia, the subject of the present memoir, was born in Athens, in the State of Georgia, on the 24th June, 1820. His family is one of the most distinguished in the history of the State. His father, Henry Jackson, LL.D., was a man of remarkable attainment in science and literature, to the cultivation of which he devoted his life. With the view of prosecuting his favorite studies, he accepted, in 1813, the place of Secretary of Legation to the French court, which was tendered to him by Mr. Crawford, and remained for several years at Paris in that position, and subsequently as "Chargé d'Affaires" of the United States. Upon his return to this country in 1819, he married the mother of Judge Jackson, a lady of superior character and intelligence, originally from Virginia, whose maiden name was Martha J. Rootes, and who is still living. He likewise resumed in that year a professorship in the University of Georgia, which he had relinquished, but resigned it when the subject of this memoir was in his eighth year, and, subsequently, declining the presidency of that institution, which was repeatedly and urgently offered to him, devoted himself to the education of his children. The uncle of Judge Jackson, General James Jackson, was, in his lifetime, the most conspicuous and prominent individual in the State, having been, apart from his military offices, the governor of Georgia, and a senator in Congress, and having, both as a soldier and a statesman, left an undying name upon the annals of our land.

Judge Jackson was educated by his father, in his native place, until his twelfth year, when he was sent to Edge-Hill Seminary, at Princeton. In 1835 he entered the Freshman class at Yale College, and in 1839 graduated there, with one of the higher honors. He returned to Georgia in the same year, and was admitted to the bar in Columbus, in the early part of the next, and there commenced the practice of the law; but in a short time thereafter was recalled to Athens by his father's death, and subsequently settled in the city of Savannah, in the autumn of 1841, where he soon entered upon a lucrative and successful career in the profession he had adopted, and where, in 1844, he was married to Miss Cornelia A. Davenport, his present wife.

In 1846, however, the Mexican war broke out, and a call was made by the National Government of the United States upon the patriotism and services of the citizens of this Republic to bear aloft into the heart of the enemy's country "the stars and stripes" of our own

glorious land. Judge Jackson was, at that time, the commander of a fine volunteer corps in the city of Savannah, called the "Irish Jasper Greens," composed, principally, of men from Erin's sea-girt isle, whose natives have always been celebrated for gallantry and generosity. The corps was named after *Sergeant Jasper*, whose name has long been a by-word in this State for his heroic achievements in the Revolutionary War, and whose heart's blood was poured out upon the sandy plains of Savannah, in the effort to drive the invaders from her soil. The Jasper Greens, with Captain Jackson at their head, volunteered to go and sustain America's proud name on the fields of Mexico; and their services having been promptly accepted, they proceeded to Columbus, Georgia, to form a connection with the other volunteer corps, composing the Georgia regiment. An election for colonel was ordered, and Captain Jackson, though by far the youngest man whose name was brought forward, and though his competitors were men distinguished alike for intelligence and bravery, was elected to the command of the regiment, which marched immediately thereafter to Mexico. It joined the command of Major-General Paterson at Camargo, and was shortly after selected by him to make a forced march to the relief of Colonel Taylor of the Commissary Department, who was proceeding towards Monterey with a large amount of specie, and had sent back for assistance, in anticipation of an attack from the enemy. It reached General Taylor's head-quarters a few days after the battle of Monterey; subsequently preceded that officer to Victoria, under General Quitman, not unfrequently marching in sight of the enemy's cavalry, joined the command of General Scott at Tampico, landed with him at Vera Cruz, and rendered efficient service during the entire siege of that city. It was not the good fortune of Georgia's troops to obtain a place in any of the pitched battles of that eventful time, though they sought it anxiously and fearlessly; but their gallant bearing, the exact discipline they attained, and their unmurmuring attention to every command given to them, excited the admiration of the general officers, always secured for them positions of anticipated danger, and added greatly to the already high character of their youthful leader. After twelve months of toil and forced marches, in an inhospitable country, and trying climate, the remnant of these brave troops returned to Georgia, leaving behind them many a gallant heart to crumble into dust, far away from its cherished home.

Colonel Jackson returned with them, and again resumed the duties of his profession. The high talent he had already developed at the bar, and the energy and decision of character he had evinced in the campaign in Mexico, induced his friends to place him before the Legislature of his native State for the office of Judge of the Superior Courts of the Eastern District of Georgia, and he was elected shortly after. There is, perhaps, no position more calculated to unfold the true character of any one than this office. With duties the most multifarious and responsible, taxing the mental and physical energies to the utmost, and surrounded by lawyers, many of whom are among the most learned and prominent in the State, a judge who sustains himself creditably, is entitled to high praise. But Judge Jackson has done more than this; he has given great satisfaction by his decisions.

Courteous in his manner, decided in his course, prompt in his opinions, and energetic in all his movements, he has commanded the respect of the bar, and the esteem and confidence of the whole circuit. Even the unsuccessful suitors in his courts are often forced to admit that his decisions are founded in the principles of legal justice and common sense, however much they may object to the application of these rules to their own cases. It is no small credit to any one to have obtained so distinguished a name at so early an age.

We have spoken of the legal abilities and private character of Judge Jackson. But, apart from these, he possesses genius of no common order. Some of the most beautiful lyrics of the day have been written by him; and this brief memoir would be incomplete without some specimens of his poetic talent. The first piece we select is one addressed to his father, taken from the volume of poems published by him. It has always been his grateful acknowledgment, that he had been peculiarly blessed in the character and affection of his parents, and he has ever ascribed to their devoted love and attention, the eminent success that has attended him in this life. The reader will, therefore, sympathize with and appreciate the touching lines that follow:

MY FATHER.

As die the embers on the hearth,
  And o'er the floor the shadows fall,
And creeps the chirping cricket forth,
  And ticks the death-watch in the wall,
I see a form in yonder chair
  That grows beneath the waning light;
There are the wan, sad features—there
  The pallid brow and locks of white.

My Father! when they laid thee down,
  And heaped the clay upon thy breast,
And left thee sleeping all alone
  Upon thy narrow couch of rest,
I know not why I could not weep,
  The soothing drops refused to roll—
And oh! that grief is mild and deep,
  Which settles tearless on the soul.

But when I saw thy vacant chair,
  Thine idle hat upon the wall,
Thy book—the penciled passage where
  Thine eye had rested last of all;
The tree beneath whose friendly shade
  Thy trembling feet had wandered forth;
The very prints those feet had made
  When last they feebly trod the earth;—

And thought, while countless ages fled,
  Thy vacant seat would vacant stand;
Unworn thy hat—thy book unread,
  Effaced thy footsteps from the sand;
And widowed in this cheerless world
  The heart that gave its love to thee,
Torn like the vine whose tendrils curled
  More closely round the falling tree;—

Oh, Father! *then* for her and thee,
  Gushed madly forth the scorching tears;
And oft, and long, and bitterly,
  Those tears have gushed in later years:
For as the world grows cold around,
  And things take on their real hue,
'Tis sad to learn that love is found
  Alone above the stars with you!

The next selection was written to his wife and child, from the camp in Mexico:

MY WIFE AND CHILD.

The tattoo beats; the lights are gone;
  The camp around in slumber lies;
The night, with solemn pace, moves on;
  The shadows thicken o'er the skies;
But sleep my weary eyes hath flown,
  And sad, uneasy thoughts arise.

I think of thee, oh, dearest one!
  Whose love mine early life hath blest;
Of thee and him—our baby son—
  Who slumbers on thy gentle breast;
God of the tender, frail, and lone,
  Oh, guard that little sleeper's rest!

And hover, gently hover near
  To her, whose watchful eye is wet;
The mother—wife, the doubly dear,
  In whose young heart have freshly met
Two streams of love so deep and clear,
  And cheer her drooping spirit yet!

Now, as she kneels before thy throne,
  Oh, teach her, Ruler of the skies!
That while, by Thy behest alone,
  Earth's mightiest powers fall or rise—
No tear is wept to thee unknown,
  Nor hair is lost, nor sparrow dies!

That Thou canst stay the ruthless hand
  Of dark disease, and soothe its pain;
That only by Thy stern command
  The battle's lost, the soldier's slain;
That from the distant sea or land
  Thou bring'st the wanderer home again!

And when upon her pillow lone,
  Her tear-wet cheek is sadly pressed,
May happier visions beam upon
  The brightening currents of her breast;
Nor frowning look, nor angry tone,
  Disturb the Sabbath of her rest!

Wherever fate those forms may throw,
  Lov'd with a passion almost wild—
By day, by night—in joy, or woe—
  By fears oppressed, or hopes beguiled—
From every danger, every foe,
  Oh, God! protect my wife and child?

Camargo, Mexico, 1846.

The last lyric our space will allow us to introduce, is:

"A DESERTED HOMESTEAD IN MIDDLE GEORGIA.

Deserted fields on every side
  Lie in the desert air;
The storm has ploughed their furrows wide,
  And laid their bosoms bare;
How still the earth! how sad the sky!
  The loneliness how deep!
Exhausted Nature seems to lie
  In weariness and sleep.

Where now the fields of yellow corn,
  Of cotton snowy white,
That rustled in the breezy morn,
  Or kindled in the light?
Where now the wood of oak and pine,
  That waved with sea-like swell?
Where now the herds of lowing kine?
  The horn, the tinkling bell?

Gone is the fondly nurtured grove,
  Gone are its precious flowers,
And gone the curling vines that wove
  Its branches into bowers:—
The garden with its arbor—gone,
  And gone the orchard green;
A shattered chimney stands alone
  Possessor of the scene.

My mother earth! I deeply grieve
  That o'er thy happy face
The rapid wheels of time should leave
  So desolate a trace:—
Thou hast not numbered many years,
  Thou 'rt old before thy day,
Like a young heart sickening with its cares,
  And perishing away.

And where are they who loved thee best
  Of all the smiling earth—
Who clung to thee as to the breast
  Of one that gave them birth?
Some sleep beneath yon mouldering stone
  Within thine arms of clay;—
Aye! some are dead! The rest are gone
  Towards the setting day.

And yet this spot—I love it well!
  Home of my early years!
Thou 'rt hallowed to me in the spell
  Of countless smiles and tears!
The smiles have vanished, like the flowers
  That bloomed when thou wert blessed;—
The tears still gush, like thunder showers
  That rend thy desert breast."

These are but the scattered gems, that are found in rich profusion, in the mine whence they have been extracted.

The poem called "Pallulah," after Georgia's majestic water-fall, is the longest and most elaborated in the published volume; and we will not mar its beauties by a selection from it, for the whole should be read to properly appreciate it.

Indeed, the time has not yet arrived to write the history of Judge Jackson. We hope and believe, that a long and successful career is before him, in which he will gain new laurels and obtain a loftier position; and when life's tide has ebbed away, and "after its fitful fever, he sleeps well," some abler hand than the writer of this imperfect sketch will depict the excellencies, and virtues, and honors of one who has added lustre to the State and family that gave him birth.

HON. CALVIN JONES,

CHANCELLOR OF THE WESTERN DIVISION OF TENNESSEE.

The life of the subject of this memoir, though not diversified by a variety of incident, will add another proof of the fact which we see daily exemplified, that industry, a correct moral deportment, and a fixed and determined purpose to attain to excellence and distinction in a given pursuit, will be crowned with success; and that high position in a country like ours is the reward of merit and of those virtues which adorn and dignify human character.

Calvin Jones was born in the county of Person and State of North Carolina, on the 8th of July, 1810. His paternal ancestry emigrated from Wales at an early period, and settled in Southampton county, Va., where his father, Wilson Jones, was born. His grandfather removed from Virginia to Person county, about the opening of the American Revolution, and there died, leaving four children, of whom Wilson was the youngest (three sons and a daughter). The oldest son was a soldier of the Revolution, and was engaged in skirmishing against the Tories, principally in Guilford, Orange, Moore, and Chatham counties. His maternal ancestry came from Scotland, and his maternal grandfather enlisted as a private soldier at the beginning of the Revolution. He was in the severe battles of Trenton and Brandywine, and was dangerously wounded at Monmouth Court-house. The father of the subject of this notice was a worthy and respected citizen, popular among his associates, and about the year 1814, emigrated and settled

in the county of Giles and State of Tennessee, where he shortly afterwards died. His mother, who, to use the language of her neighbors and acquaintances, was "one of the kindest and best of women," died soon afterwards, leaving him an orphan at a very tender age. His maternal grandfather and grandmother took charge of him, and when he was of sufficient age they placed him at a grammar school in Giles county. Before he was twelve years old he was sent to North Carolina, and committed to the charge of his uncle, to be trained to the mercantile business. While living with his uncle at Roxboro' (who was also clerk of one of the courts), he was brought in contact with some of the prominent men of that portion of the State; among the number, Judge Archibald Murphy, Bartlet Yancey, Esq., and J. G. A. Williamson, United States' Chargé des Affaires to Venezuela. They took a kind and lively interest in him, discovering an intellectual promise beyond his years, and the germ of future usefulness, and advised him to abandon his then pursuit and obtain a college education. Yielding to their advice, he left the counting-room for the preparatory school. Some kind friends offered him the use of money to complete his education, but this he had the manliness to decline, preferring rather to exhaust the small patrimony left him by his father, if necessary; determined to stand upon his own resources—to be industrious and frugal, and not covet those indulgences which were beyond his means, and but too often fatal to the promise of the classical student.

His uncle was very reluctant to give him up, and offered him, though quite a youth, a partnership in his store; but his youthful aspirations pointed to something higher than the mere acquisition of money. He commenced his preparatory course of studies under old Mr. Bingham, a noted classical teacher, in Orange county, North Carolina, and a ripe scholar of the old school. He was a close student, and advanced rapidly, completing his preparatory course in half the time usually allotted. Meantime, however, old Mr. Bingham died, and he finished his course of studies, preparatory for College, under Mr. W. I. Bingham, a son of the old man, and who afterwards attained to the highest eminence as a teacher. He left the preparatory school with one of the first distinctions of his class, and entered the University of North Carolina, at Chapel Hill, where he took a regular and thorough course of four years. While at College, he was devoted to his studies, ambitious of distinction, remarkable for his systematic habits, the purity of his moral deportment, and his punctual observance of all the regulations and duties imposed upon him as a student, abstaining entirely from those vices and dissipations which are but too often a snare to the feet of the unwary student. At the same time, by his bland and courteous bearing and candor, his entire freedom from vanity and selfishness, he won the confidence of his teachers and secured the respect and attention of his fellow-students and class-mates. He manifested a peculiar fondness for the ancient classics, and graduated with one of the first honors, speaking the valedictory oration, and was publicly commended for his uniformly good deportment.

The trustees tendered to him the *unusual* compliment to have his valedictory address published. This he declined. It has scarcely fallen to the lot of any student to leave that ancient seat of learning with

more flattering auspices. Having completed his collegiate course, he returned to his home and friends in Tennessee, where he remained but a short time before he determined to visit some of his relations in South Alabama. While there, he was elected Assistant to the Professor of Ancient Languages in the University of Alabama, at Tuskaloosa, over a number of applicants. This situation he was induced to take in order to relieve himself from some indebtedness incurred in obtaining his education, and he held it for about two years. He returned to Tennessee in 1833, and in 1834 commenced the study of law in the office of Aaron V. Brown, Esq., who was afterwards a Representative in Congress from Tennessee, and subsequently Governor of the State. In 1836, he opened an office in Pulaski, Tennessee, and soon had a fair share of business for a young practitioner. In 1835, he returned to North Carolina, and married. This was the result of a romantic attachment formed about the close of his collegiate course. His wife was a young lady of much personal beauty, well accomplished, amiable and gentle in her disposition, and with a mind elevated and imbued with those virtues that adorn the sex. This could not fail to be a happy union. In the winter of 1837–8, he removed to Sommerville, Fayette County, Tennessee, where he continues to reside at this date. He there entered upon the active discharge of the duties of his profession, and always commanded a good practice. He manifested a decided taste and preference for the Chancery practice, and in the winter of 1847–8 he was elected by the Legislature of the State to the position which he now holds of Chancellor of the Western Division of Tennessee, comprising all that fertile region which lies between the Tennessee river, on the east, and the Mississippi river, on the west. For this position he was eminently fitted, if a well-disciplined mind, deeply imbued with classical learning, integrity and purity of life, and a thorough reading and practice of his profession, are to be taken as the standards of qualification. He was now thrown in contact with the entire Bar of West Tennessee, distinguished for great legal ability, vigor and originality of thought. The litigation in his Division is heavy, presenting many questions of much difficulty, as well as involving large amounts.

He has been punctual in his attendance at the Courts, though in many cases widely distant, and separated by numerous water-courses, with broad swampy bottoms, often overflown. Patient in his investigation of facts, and lending an attentive ear to the argument of Counsel; at all times obliging and respectful to the members of the Bar, but at the same time maintaining the dignity of his position and preserving the utmost decorum in court; gifted with great equanimity of temper and an instinctive love of justice, and possessing a mind capable of the most minute and expanded research, without becoming wearied, he has been able and generally accurate in his decisions, being but seldom reversed. He could not, therefore, fail to be popular, and to give general satisfaction to the Counsel and the parties litigant. He has contributed much to sustain the Chancery Court system in his Circuit, and to secure for this branch of the Judiciary that favor and confidence with the public which, from the simplicity of its forms and proceedings—its repugnance to all chicanery and fraud, and its instinctive love of truth and justice, it is fairly entitled to maintain—illustrating, in his daily

walk, those virtues which, while they add a charm to private life, are, after all, the brightest ornaments of the judicial ermine, and, for the want of which, no brilliancy of intellect, no erudition, however profound, can compensate.

BIOGRAPHICAL LETTER FROM HON. LEVINUS MONSON,

OF THE SUPREME COURT OF NEW YORK.

DEAR SIR :—I feel greatly honored by your letter, received a while since, in which you requested my memoir for publication. The life of a lawyer quietly spent mostly in the county of Delaware, N. Y., would hardly be expected to furnish incidents that would be likely to entertain or interest the public. It may more truly be said of him than what the great lexicographer and moralist Doctor Johnson said of himself, *vitam continet una dies*, or in other words, that his life is as unvaried as the note of the cuckoo. And whether I have reached the mark proposed by Pliny the younger may perhaps be questionable—"since it is not granted us to live long, let us transmit to posterity some memorial that we have at least *lived*." But encouraged by your flattering invitation I will begin by saying that—

Jabez Monson, a respectable farmer, and his wife, Eunice Atwater, resided in Hamden, near New Haven, Ct., and were the parents of a large family, of whom Joshua was a younger son. He married Sarah Booth, who, after becoming the mother of six children, died, when he was again married and raised a large family of children, of whom myself was the eldest. When I was about four years of age my father removed to the town of Canaan, in the north part of the State, where, after a long life of hard labor, he died in the possession of a large farm. Here my advantages for education for some years were confined to a common district school, where I made successful progress in the studies usually taught there, excelling particularly in reading and spelling—branches, however humble they may appear to some, in which I have often observed many men of learning and ability to be sadly deficient. While thus engaged, it does not occur to my recollection, that I ever incurred the disapprobation of my teacher, for misbehavior or inattention or negligence in my studies. Time elapsed, when my mother received a visit from an aunt of hers residing in New Haven, and her son, then a member of Yale College, who, it would seem, inspired my parents with the ambitious notion of giving their son a collegiate education. Accordingly, a while after, I went to N. H., and commenced study, at first under the directions of this relative; afterwards I went to the Latin school in N. H., where I had for a fellow student among others, the Hon. R. S. Baldwin, the late distinguished U. S. Senator from Connecticut, and for a while I was under the tuition of one of the professors of Yale, who, on account of ill-health, devoted most of his time in preparing young men for College. Having laid in a sufficient quantity of Latin and Greek, I entered the Freshman class and spent four years

within Yale's time-honored walls; though five years elapsed between my matriculation and graduation, one year of which was spent out of College, partly on account of ill-health. This year was not turned to the best account in advancing my studies. In the winter I taught a district school in the town of Salisbury, and in the summer I pretended to study law in Norfolk, Ct., along with half a dozen others, under the direction of Judge Pettibone. But I devoted as much attention, probably, to an interesting society of young ladies as to the pages of Swift and Blackstone. The time, of course, went off pleasantly, if not profitably.

While a student at the Latin school, on one occasion, along with some other lads, I attended a fourth of July celebration about a mile out of the city, got up under the direction of the celebrated Gen. Humphreys, who introduced Merino sheep into this country. A ploughing match was one of the exercises. The General, with a few other gentlemen, and a troop of boys dressed in uniform from his factory in Humphreysville, sat down to a dinner in the open air, under an arbor of green boughs. When it was time to drink wine, the General gave this toast—"Deeds not words."

While I was a member of Yale, it was a custom for the three under classes to have an exhibition, the evening before commencement, six out of each class being selected to speak pieces original or selected, and the three best speakers in each class to be rewarded with premiums. In my junior year I was selected one of the speakers, and received the third premium, which perhaps is worth noticing, as those of my class who took the first and second were accounted the best speakers in College, one excelling in Tragedy, the other in Comedy. When I graduated, as the class was rather large for those days, about one-third only received appointments, and among these a medium appointment was bestowed on me. My friend, Hon. S. B. Strong, of Suffolk, Long Island, who was my chum as well as classmate, excelled in mathematics and received a higher appointment.

After I left College, I spent the following winter in Salisbury, Ct., in the office of Gen. Sterling, in company with two or three other law students, but my time was employed principally in copying a course of Reeve's Lectures, which I borrowed of Mr. Church, now the Chief Justice of Conn. In the following spring I was preparing to go to Whitestown or Utica, when meeting with an old acquaintance, I was induced to go to Delhi, Delaware county, N. Y., where in the office of Samuel Sherwood, now a distinguished lawyer in the city of New. York, I spent about two years very agreeably, relieving occasionally the tedium of study in the long days of summer in catching trout in the Little Delaware with a fly hook, after the most approved manner of Izaak Walton. Besides attending to the study of law, I dipped a little into the British classics and perused with increased enjoyment the English poets, Pope, Dryden, Shakspeare, Young, Cowper, Shenstone, Scott, Byron, Wordsworth, Butler, Milton, Campbell, &c. My friend, who had beguiled me to the banks of the Delaware, having become a resident of Binghamton, came to Delhi to attend a term of the Common Pleas, and invited me to go home with him. So I started on, and as my effects did not occupy much space, and we had only one horse between us, with-

out wagon or sleigh, we "rode and tied," as Johnson and Garrick did in their first journey from Litchfield to London. After a few weeks, not finding so good a library as I left, I returned to Delhi, and perhaps I committed a mistake, for my friends had made me favorable proposals in the way of business. During the period of studentship, before and for years after, I was an ardent devotee at the shrine of Clio, the Historic muse, reading with intensity, history ancient and modern, Greek and Roman, Jewish and Mahometan, and more particularly English and American—Lingard, Clarendon, Burnet, Rollin, Hallam, Aikin, Marshall, Ramsay, Robertson, Trumbull, and at a later day Bancroft, Prescott, Strickland, &c. A lawyer can study Gibbon to advantage in obtaining a knowledge of the civil law, but he can derive but little instruction in reading Hume from his great deficiency in the knowledge of English Jurisprudence. Lord Chief Justice Campbell says in effect that he did not know the difference between a statute and a proclamation. His narrative will entertain one fond of novel reading, but a person in search of historic truth will be tempted to look elsewhere.

Instead of enjoying the advantages of "moots, readings, and exercises," as they were practised in the Inns of Court in London, in the seventeenth century, the country law student here attended occasionally to pettifogging, so called, or trying causes in justices' courts, where he could exercise the judgment in applying principles stored in the memory. In pursuing the study of law, instead of reading books through by course, as much as some did, I rather preferred examining several books in reference to a subject, taking notes in a condensed form on particular points and questions—not that I made so large a commonplace book as did Sir Edward Coke. The manuscript books thus formed, as well as some briefs made on trials in justices' courts, have been of service to me in after years. Indeed, it was generally my practice to read with pen in hand; and I have quite a bundle of notes of miscellaneous reading, which I like occasionally to look into to refresh my recollections.

Shortly before my admission to the bar, an invitation led me to Hobart, where I located myself in practice. Commencing, as I did, with nothing, and somewhat less than nothing as to pecuniary funds, and buying books on credit rather than be without them, with limited business, not yielding large fees, some time elapsed before I could consider myself in comfortable circumstances; and I never was one of the fortunate ones in acquiring property. Before our Revised Statutes of 1830, I felt quite ready to give such advice to a client as his case required, but after that period, I could say with my Lord Coke—"If I am asked a question of common law, I should be ashamed if I could not immediately answer it; but if I am asked a question of statute law, I should be ashamed to answer it without referring to the statute book." It is hardly necessary to say, that the resemblance would be the most perfect as to the statute law.

When I commenced business in Hobart, the Episcopalian was the prevailing religious denomination; indeed, the Church, so called, was the only house of public worship in the place. I had not made it a practice to attend to law studies, or pursue law business, on Sunday;

and had been accustomed to Congregationalism, having for four years sat under the preaching of the great New England Gamaliel in divinity, President Dwight. In view of the various denominations in the world, I resolved fairly and thoroughly to examine the subject, and decide for myself, uninfluenced by the prejudices of an early education, which were naturally against Episcopacy. For years, as I found leisure, I read ecclesiastical history in the pages of Eusebius, Fleury, Bossuet, Mosheim, Collier, &c.; cultivated an acquaintance with the Fathers, Clement, Ignatius, Polycarp, including those who lived at a later period; read the story of the Reformation, as related by Burnet, Soames, Southey and Le Bas in his life of Cranmer; for the doctrines of the Church, I studied Bull, Barrow, Jewell, Tillotson, Hooker, Horne, Heber, Law, Leslie, Waterland, Tomline, White, Seabury, Ravenscroft; grasped everything within my reach, whether for or against Episcopacy—such as Bowden, Miller, Hobart, Cooke, How, Mason, Dwight, Slater, Marshall, Onderdonk, Barnes. The object here is not to give a complete catalogue, but to present an outline of my reading, the result of all which was to remove my prejudices, render me more and more attached to, and finally, to induce me to unite with the Episcopal Church.

Having made a handsome start in my profession, my business requiring a regular attendance on the courts in Schoharie and Delaware, the office of Judge of the Delaware Common Pleas was proposed for my acceptance. I instinctively and peremptorily declined. It was urged that it might be a stepping-stone to something better; my youthful ambition was flattered, and in an evil hour I yielded to the persuasion of my friends, received the appointment from the illustrious De Witt Clinton, then Governor of the State, moved to Delhi, and business went into the hands of others, who occupied the field and reaped the crops which I had left almost white for the harvest. This proved to be a great mistake, the damage resulting from it never having been fairly surmounted to this day, although I resigned the office before the expiration of the term, and moved back to Hobart. Some time after, I was again solicited to be first Judge of the Common Pleas, but respectfully declined. When by the Constitution of 1847 the five Common Plea Judges of the old system gave place to one county Judge with a salary to be elected by the people, prominent men of both political parties expressed a desire that I should be a candidate for the office, which, however, I still thought proper to decline.

And here, with all due regard to chronological order in relating the events of my non-eventful life, I should have related before, if I related it at all, that having lived a bachelor for some years, and everybody having become tired of me as a boarder, and I tired of boarding with everybody, I happened fortunately to fall in company with my present wife, Mary Parish, to whom I was married, and we are now the parents of four young daughters.

In 1828, I engaged in the great Presidential campaign between Adams and Jackson, wrote articles for the only paper printed in Delhi, and which received communications from both political parties; drew up resolutions, made speeches at conventions, corresponded with leading men in every town in the county who were favorable to Adams, distributed papers and electioneering information; in short, devoted my

time, from July to November, to the neglect of my professional business. My leading opponent was S. R. Hobbie, Esq., who has since acquired an honorable distinction in the P. O. Department at Washington. Jackson became President in spite of all my exertions to the contrary. After that, my political fervor greatly subsided, and for some years past I have had but little to do with political matters, partly for want of taste, and more perhaps for want of encouragement; the majority in our districts for members of state and national legislature, having generally been of politics adverse to mine.

Nine or ten years ago an article appeared in the *Delaware Express*, printed in Delhi, on the subject of Puseyism, and, in effect, charging the Episcopal church with entertaining Romish doctrines. I sent an answer, which was published and replied to. I rejoined, and by this time found I was engaged in a sharp encounter with the Presbyterian clergyman of that place. Nothing appalled, even by the sentiment expressed by the great Melancthon, that "among the reasons for which he wished to leave this world, the foremost was that he should avoid the *odium theologicum*," and I kept on. The controversy took a wide range, embracing several of the leading doctrines of the Episcopal church, and ending with the subject of Episcopacy. It continued in a weekly paper from August till the next February, at least on my part. My opponent hauled off, as it was understood, by the advice of his friends, leaving me in the possession of the field. I have never heard that he felt himself entitled, after the old Roman fashion, to demand a triumph, or even an ovation.

In December, 1849, intelligence was received of the sudden decease of the Hon. Eben. Morehouse, of Cooperstown, one of the Justices of the Supreme Court of the Sixth Judicial District, N. Y. Agreeably to the advice of my friends, my name, backed by petitions, was forwarded to Albany as a candidate for the vacant office. Although I had four competitors, respectable for learning and ability, residing in different parts of this extensive Judicial District, I soon enjoyed the honor of receiving the appointment from his Excellency Hamilton Fish, Governor of this State, and now Senator of the United States. The object long aimed at was at length attained. The appointment could not continue for the entire vacancy, which was six years, but only—such was the Constitution—till the vacancy should be supplied at the next regular Judicial election. It commenced, therefore, in January, 1850, and terminated in December, 1851, unless continued by election. I think I entered upon the duties of the office with a just appreciation of its labor, its magnitude, and its responsibility. With due regard to the motto of Sir Matthew Hale—*festina lente*—make haste with care,—I should hope not to have been justly liable to the witticism applied to a celebrated Lord Chancellor of England, and to his Vice Chancellor, that the court of the one was Oyer sans Terminer, that of the other was Terminer sans Oyer. Judging from the many testimonials which I have received, I think I do not take too much upon myself in saying that the manner in which my judicial functions have been discharged has received the approbation of a generous public. Just as the onerous duties cease to be oppressive, and I have become to bear them easily, my term is ended. I was not so fortunate as to receive a nomination

from the Whig Judicial Convention in September last, and yet my nomination was expected, as a matter of course, by both political parties throughout the district. How these facts can be reconciled may be understood by those familiar with the manœuvering of politicians. It is not my purpose here to enter into an explanation. Numerous communications from different parts of the district have been received, expressive of disappointment and regret at the proceedings, and stating that courtesy to our late Governor, to say nothing of myself, as well as sound policy, should have dictated a different result. I believe I speak but the general sentiment in saying that my nomination would have insured my election, and thus have continued my Justiceship through the remainder of the unexpired term. The gentleman by whom I was superseded, therefore, is now probably satisfied that he did me an injury without benefiting himself, for he was not elected. Without a property to fall back upon and enjoy, and with a young family to support, I am necessarily driven into the profession again. The destiny imposed on man of earning his bread by the sweat of his brow, I must not expect any exemption from its literal fulfillment, by even a temporary alleviation, but it is fastened upon me with a tenacity as unbroken and unrelenting as that with which the tunic of Nessus adhered to its victim.

While I was holding the circuit in Ithaca, in October last, my Delaware friends, moved with a lively sense of the injustice that had been done me in regard to the Judicial nominations, put me in nomination for the office of Senator for the district composed of Delaware and Schoharie. This I regretted, for it was an office which I really did not want, and if it had been desirable, my necessary absence from the county till about the time of election, would give my opponent an undue advantage over me, for I considered that hundreds, nay, thousands of votes, would have been given me for the office of Judge, which I could hardly expect to receive for the office of Senator. I therefore felt constrained to write letters into the county declining the nomination, but for which, I am told, that a majority of votes in the district would have been cast for me, and with this impediment, which seriously hampered the action of my friends, I obtained about four hundred majority in the county of Delaware, which gave about twenty-two hundred majority for the Democratic State ticket generally.

And here, I believe, I will bring this brief memoir, or autobiographical sketch, or by whatever name you will please to call it, to a close. And brief as it is, very probably it is too long, and the pen of the critic would erase some things as not of sufficient dignity and importance to be mentioned. I had thought of inserting some complimentary notices from the *Cortland Democrat*, the *Oxford Times*, and some other newspapers in the district, but will content myself with an extract from a letter received from the Hon. Jabez D. Hammond, LL.D., of Cherry Valley, to whom I had sent a paper containing my charge to the jury in the case of Thurston, tried before me at Owego, in October last, and convicted of murder, at the same time asking Judge Hammond and the public to pardon me in this thing.

"CHERRY VALLEY, Nov. 15, 1851.—My Dear Sir: I thank you for a copy of your charge in the case of Thurston. I think the death penalty

in all cases ought to be abolished, but you have in that case, as it was your duty to do, stated ably and clearly the law by which the jury were bound to be governed. I regret that the public, for some years at least, are to be deprived of your services in the Judiciary Department, but you have the satisfaction of retiring from that service with the consolatory reflection that there is not a human being who does not concede that you have discharged your arduous duties faithfully, ably, honestly, and impartially. I regret that we are not immediately to be favored with your aid in legislation."

I am, very respectfully,
Your obedient servant,
LEVINUS MONSON.

To JOHN LIVINGSTON, Esq., Editor
U. S. Law Magazine, N. Y.
Hobart, Delaware Co., Feb., 1852.

HON. JOHN HALL BROCKWAY,

OF CONNECTICUT.

MOST men of eminence have found it necessary, for some reason, to leave the place of their nativity to achieve their greatness. The disadvantage of being well known—known in one's descent, known from birth through boyhood and youth to manhood, together with a position somewhat retired perhaps, and one side of the great centers of business, are disadvantages against which few distinguished men have been able or willing to contend. We take, therefore, peculiar pleasure in contemplating the eminence of men, in any profession, who have grown to what they are on the very spot which gave them birth. We have an assurance that their development has been in a natural and legitimate way—that they owe none of their celebrity to concealment—that they *are* what they are.

There are, it is true, a few men, to be great in whose estimation it is necessary that a man has come from afar, and that his origin be enveloped in mystery; for how is it possible that a man born in the same place with them, who has attended the same school, and who has been their companion and equal in boyhood, can ever have become greater than they? The opinions of such men, however, will not be much sought for by posterity in estimating the true dimensions of men of eminence.

JOHN HALL BROCKWAY lives, and has always lived, in the place of his birth. In the most proper use of language he belongs to Ellington. In the neat and beautiful village of that name, in Tolland county, Conn., his spacious mansion, with an air of domestic comfort and good taste, stands within a few rods of his paternal mansion, and occupies that position which, in a New England town, has always been held in high estimation—a position close by the church and the public green.

It is of no disadvantage in his own town or county to be known as

the son of the Rev. Diodate Brockway, who, for fifty years, was the beloved and honored minister of Ellington, pastor of the Congregational church in that town—who died during his pastorship and was buried among his own buried flock; a man whose personal appearance, at least, must have been familiar to the greatest part of the living graduates of Yale College, he having long been seen annually, till his death, among the corporate body of that institution. His grandfather was the Rev. Thomas Brockway, who was the minister of Columbia, in the same county. With such a parentage, being, as we see, of regular "Levitical descent," it was to have been expected that his sympathies would be, as they are, with the ministry and the Puritan blood of New England.

His preparation for college was made, in part, under the private tuition of the late Dr. Andrew Yates, while he was the minister of East Hartford; and, in part, at the Monson Academy in Massachusetts, while that institution was under the care of the Rev. Joy H. Fairchild. He entered the Freshman class in Yale College in the fall of 1816, and was graduated in course with the class, in the fall of 1820; a class which has given several distinguished men to the world, and among them President Woolsey and the Rev. Dr. Bacon.

For the first year after his graduation, he taught the Academy on East Windsor Hill. His study of law, preparatory to his professional life, was pursued and completed at New Haven, in the school then under the instruction of Seth P. Staples, Esq., now of New York city, and the late Samuel I. Hitchcock, Esq., and he was admitted to the bar in New Haven county in the spring of 1823. Since that period, with the exception of four years spent in Congress, he has been very successfully and constantly engaged in the practice of law in his native town and county, in which county he now holds the office of Attorney for the State. He has been twice a member of the House of Representatives in the General Assembly of this State, and was a member of the Senate in 1834. In the spring of 1839 he was elected Representative of the District, composed of the counties of Windham and Tolland, in the Congress of the United States. And as an evidence of the fact that his representative duties were duly appreciated at home, he was re-elected to the same office in 1841.

Mr. Brockway's term of service occurred in that period of our history in which the Sub-Treasury system and the Tariff of 1842 engrossed the attention of Congress and of the country, and, upon each of these topics, as they came before Congress, he delivered a speech, in which he gave manly utterance to his own views and feelings and those of his constituents. It was his pleasure, while in Congress, to enjoy the personal friendship and confidence, to an extent not bestowed upon many of his co-Representatives, as well as the respect of Ex-President John Quincy Adams.

To complete the list of the more important dates in his life, we have only to subjoin here that, in 1829, six years after the commencement of his professional life, Mr. Brockway connected himself in marriage with Miss Flavia Field Colton, daughter of Samuel Colton, Esq., of Longmeadow, Mass., who still presides over his hospitable mansion,

and rejoices with him in a family, yet unbroken by death, of three daughters.

There are some men so nicely tempered in the elements of their being that, to use the language of natural science, they seem formed to be "perfect conductors" of the better sympathies, at least, of all with whom they are thrown into contact. Without any conscious effort or design on their part, and, indeed, because they cannot avoid it, they enter at once into the feelings and appreciate the views of others around them, and find their hearts beating in unison with the circle of which they happen, for the time, to form a part. They are instinctively interested in others, and have the power of interesting others in themselves without any conscious effort to do so. A free interchange of thought and feeling between themselves and others takes place almost at the moment of contact, and they have the happy art of throwing themselves at once into the position of other minds and of appreciating such views of things as that position presents. To pronounce such men insincere, unstable, and destitute of any fixed opinions and principles—to regard them as under the control of mere selfish policy and aiming at universal popular favor, would evince an utter want of discrimination, and would be the grossest misrepresentation of the class of men whom we are describing.

Receiving from the hands of his Maker a temperament of this peculiar character, Mr. Brockway is happily fitted for distinction both in social and professional life, and for the general offices of a public speaker; and to this temperament in part, must be attributed his achieved and acknowledged eminence in each of these particulars. It would not be easy for him to avoid being the life of every social circle of which he is a part, or becoming thoroughly identified for the time with his client, or engaging the attention at once of any assembly in which he is called to speak. With a ready command of language, for which he is indebted in part to the habitual reading of the best writers of our own language, and of the classics of other languages, and a happy susceptibility by which he kindles at once with the spirit of his occasion, he is never long on his feet without saying what the occasion demands, and making himself understood and felt.

As to the peculiar cast of Mr. Brockway's mind as it developes itself, especially in his forensic efforts, it is rather to be classed with such as seize at once upon the great and broad principles of justice and common sense in the case and bring those principles to bear, than among that class which spend their strength in eliminating nice and subtle distinctions, and which astonish others by the precision with which such distinctions are drawn out. Though blessed by a kind Providence with the means of securing a library of extensive range and of great value, the materials which he draws from this resource are never paraded for display, nor can his mind be characterized as a depository of the thoughts of other men; while he still knows how, when occasion requires, to apply a choice saying, either of the ancients or moderns, to a passing exigency, with singular propriety.

Mr. Brockway excels many eminent men in his thorough knowledge of human nature, and in his quick and instinctive insight into the character of individual men. He knows how to approach men of all classes

and of all prejudices, and to impress himself upon them; and if there be any weakness especially, either in the character or the argument of his adversary, none is more ready than he to lay his finger upon it and hold it up in a clear and striking light.

Another characteristic by which Mr. Brockway is happily fitted for the office of an advocate and of a general public speaker, is a ready facility in illustration, and a command of those materials for this purpose which are supplied by the conduct and sayings of others with whom he has been brought into contact, either by personal acquaintance or by reading. Throwing himself, in his illustrations and anecdotes, as his temperament qualifies him to do, into the position and feelings of those of whom he is speaking, his narrations are always vivid and possessed of a quickening power; and if there be any man who knows how to associate ideas in a manner at once natural and yet unusual and striking, so as to produce a pleasurable surprise and wake up even a sluggish and melancholy mind, it is certainly he.

With ample materials for reading and reflection in his library, Mr. Brockway is accustomed to spend many of those leisure hours which some of his profession spend in the public haunts of men, or in a state of inaction, in company with his own books. With feelings of strong domestic attachment, and a vivid sense of the importance of "the family" as a wise and divine institution for securing great and good results, his whole time is divided between his profession, his books, and his family.

That he is a "lover of hospitality," and that his fireside is an attractive place to the stranger and the familiar visitor, may be inferred from what we have said of his general character.

With no time or disposition to enter into the practical and laborious part of agricultural life, or of horticulture, his tastes run decidedly in that direction, and his means allow him to indulge them. To listen to him in an agricultural meeting, or in a road-side conversation with an agricultural man, one would easily discover that he had much real sympathy with that class of men.

It deserves to be said of every lawyer of whom it may be said in truth, that he is *pacific* in his disposition, and in his influence on a community. Mr. Brockway is known to exert his influence habitually in discouraging all vexatious and revengeful suits at law.

In his theological views and sympathies he is about equally removed from that class of theologians, who look for everything good and true and important, only in the past, and from those who despise the ancients, and seem to have no regard but for things either new or future; and he would take as much pleasure in discovering and magnifying a point of agreement between himself and a controversialist of another sect, as some men do in holding up and substantiating a point of difference. With his tendencies toward a medium between both extremes of ultraism, he would be equally at home and equally in place in leading onward in some mental movement, or in holding back and moderating a movement as the exigency might require.

Mr. Brockway connected himself by profession with the church of which his father was then pastor, in the year 1827. Improper as it would be to enter as yet into any careful analysis of his religious char-

acter, it is proper to say that there are not many in his profession, who, by their readiness and generosity in affording pecuniary aid, by their constant attendance and earnest attention upon the ministrations of the pulpit, and their cheerful willingness to bear a part in the various duties of a New England church-membership, both in the Sabbath-school and in the less formal meetings of the church, not many men engaged in the practice of law, who, in these ways, manifest more sympathy with the clerical profession or more interest in the prosperity of things religious and ecclesiastical.

As to his physical man, Mr. Brockway's countenance, expression, and cerebral developments, may be seen in the engraving which accompanies this sketch. In stature he is of the medium size, perhaps a trifle below it, with a form full without obesity, and is erect in his bearing. His gait and movements, in harmony with his mental operations, are quick and vigorous. The half century through which he has passed, has made but little impression upon his outward man, except in changing the color of his hair.

HON. THOMAS W. BARTLEY,

OF OHIO.

Thomas W. Bartley is the son of Ex-Governor Mordecai Bartley, one of the pioneers of Ohio, who at a very early period of her history took up his abode in Richland County, where he still resides. The subject of this memoir, however, was born in Jefferson County, Ohio, February 11th, 1812. From infancy he was an object of great parental care and solicitude, and his faculties expanded under the most judicious training. Evincing an aspiring and improvable mind, he was favored with every facility for its cultivation; and after having creditably passed his *curriculum* at Jefferson College, in the State of Pennsylvania, he graduated with well-merited honor in the year 1829, and in the year 1833 the degree of master of arts was conferred upon him at the same institution.

He entered upon the study of the law at the city of Washington, under the guardianship of his father, who, at that time, and for several years preceding, occupied a seat in Congress. During the period of his professional pupilage, he manifested the same industry, ambition, and mental activity which characterized his earlier years, and such was his sense of duty and propriety, that while he moved through the fascinating circles of fashion, he neglected not his hours of study; and though he acquired the courtly manners of the capital, he escaped its contaminating influences.

He was admitted to the bar in 1832, and entered upon the practice of his profession in Mansfield, a flourishing interior village in his native State, within three miles of his father's residence, where abundant rewards crowned his commanding abilities, uprightness of character, and diligent attention to duty.

His profession was adapted alike to his taste and his talents. Although he has been induced to take a directive and active prominent part in the political affairs of his native State, he has never been seduced from the high walks of professional life. His skill as a lawyer, and his powers as an advocate, have won for him an enviable reputation, not only among the people, but among his associates and competitors at the bar.

In 1835 he was elected prosecuting attorney for the county in which he resided, a position which he occupied for four years. In 1839 he was elected a member of the popular branch of the State Legislature, where his course, for two successive years, was so satisfactory to his constituents, that they conferred upon him, in 1841, the more responsible duties of a seat in the State Senate, in which new honors awaited him.

His attention was first turned to politics while he was engaged in his professional studies at Washington, and he, at this time, espoused the creed of the democratic party. His first predilections were doubtless in favor of the whig party, of which his father was then a prominent member, and is still an earnest advocate; it is therefore fair to presume that his preference for the democratic party, thus early formed, was founded upon *principle*. Certain it is, that at that time he made the history of the two leading parties, and the bearings of the questions which divided them, matters of patient research, and that he has since vigorously maintained the principles which he first espoused, and with an undeviating attachment.

During his period of legislative service, the bank question was the all-absorbing one in Ohio. The old banks being about to expire by the limitation of their charters, their friends demanded a renewal of their privileges, or what was equivalent, a new system of banking affording similar facilities. To meet the responsibility of this question, Mr. Bartley was placed at the head of the committee on banks and the currency, and was thus compelled to take a leading part in the legislation of Ohio on this subject.

That the currency should consist of an article of a value intrinsic, and, as far as practicable, permanent and uniform throughout the commercial world; that the precious metals are sufficiently abundant for the purposes of currency; that paper money is not essential to stimulate the enterprise or secure the prosperity of a country, and that although some conveniences and advantages may be derived from it, they are more than countervailed by the evils and periodical disasters flowing from its use; that the paper money system is liable to be used as a corrupt political engine, and is therefore dangerous to the interests of a free people, were propositions which he supported with great power of argument and wealth of illustration in the course of the legislative debates which the subject called forth.

As the paper money system, however, was interwoven with the business and habits of the people, and the views of a large majority in the State not favorable to an immediate change to a specie currency, and great difficulty existed in devising and enforcing any State regulations to exclude the paper circulation of the surrounding States, Mr. Bartley proposed a measure which, as he contended, although it

would continue the bank paper money-system for a time under regulations calculated to protect community against existing abuses; it would lead to its ultimate entire abandonment by a gradual process. The plan proposed by him was adopted by the Legislature; but, being too radical for one part of the democratic party, and not sufficiently so for others, it did not receive cordial and general support, and in 1844, when the whig party obtained the ascendency in the Legislature of Ohio, it was superseded by the banking system now in operation in this State.

For the first two sessions of the Senate, after Mr. B. became a member of it, he was chairman of the judiciary committee, and took an active and leading part in the business of the Legislature generally. In December, 1843, he was elected Speaker of the Senate, and in March following, Wilson Shannon, then the Governor of the State, having been appointed Minister to Mexico, Mr. Bartley, by the provisions of the Constitution, succeeded to the chief executive office of the State, and discharged its duties until the close of the term.

In this high office he sustained himself with a becoming dignity, and adopted some new and important regulations in relation to the exercise of the pardoning power, which have since been engrafted into the new Constitution.

Mr. Bartley was succeeded in the executive office by his honored father, in December, 1844. The son closed his duties with a message, containing a full and correct exposition of the views and measures of the Democratic party of the State, while the father introduced his by an inaugural address, exhibiting a comprehensive survey of the doctrines and plans of the opposing party.

In 1845, President Polk tendered Mr. B. the appointment of United States Attorney for the District of Ohio, which he accepted, and held during the term of that administration.

In this position Mr. B. was brought into competition with lawyers of great experience and eminence in the profession; but his resources were found fully adequate to the exigencies of the situation. During his term of office an unusual number of criminal causes were prosecuted in the Circuit Court in his district, and under his judicious and faithful management, some important civil causes, for the recovery of large claims in favor of the government, and involving legal questions requiring no ordinary discrimination and research in their investigation, and which had been pending for many years, were brought to a successful and satisfactory close. In the management of two of the most important criminal causes ever tried in the U. S Circuit Court of Ohio, viz.: the prosecution against James Brown of Union-wide notoriety for counterfeiting the gold coins of the U. S., and that against Pettis and Wilson for stealing the great mail at Cincinnati, he acquired much professional distinction.

In all the cases committed to his charge in the U. S. Circuit and District Courts, his skill as a counsellor, his ingenuity as a barrister, and his power as an advocate, were fully illustrated, and drew from Judge M'Lean frequent expressions of high commendation. In the two criminal cases mentioned, the defendants were convicted on exclusively circumstantial testimony. Concerning the latter, one of the most eminent

jurists in the West, who was present at the trial, was heard to remark that it was the best prepared and most skillfully conducted prosecution on the part of the Government ever tried in Ohio.

During his entire term of service in the office of District Attorney, he never failed in a civil cause, and rarely in a criminal prosecution, and he secured confidence at the Capital so fully, that the Post-office Department obtained from him by special request, copies of some of his most important indictments for use in other judicial districts.

After the adoption of the new constitution in Ohio in the year 1851, his friends presented his name for various positions on the State ticket. Mr. B. however, desiring to prosecute his professional pursuits, was reluctant to return to public life; and it was not until the day before the meeting of the Democratic nominating convention in August, that he consented to become a candidate for the Supreme Bench of the State, to which he was elected, and over which he will preside on the expiration of the term of the present Chief Justice in 1853.

Mr. Bartley is of medium height, rather slender, and graceful in his personal appearance. Although he is scarce forty years of age, time and care have left their traces upon his thoughtful brow. His style is chaste, his argumentation clear, and his manner deliberate and impressive.

He enters upon a career with ardor, and prosecutes it with a perseverance and energy which indicates the honesty of his purpose and the strength of his character. In public walks he is grave and dignified, in the social circle polite and rather taciturn, but in private life kind and agreeable. His disposition is amiable: though the writer has heard him accused of austerity, he has never known him to be charged with malevolence. His personal influence has been extensive in public affairs, particularly in his own part of the State; and as he and his father have each taken a prominent part in their respective political parties, it would not have been surprising, had their intercourse been sometimes embittered; but I am happy to say that they do not suffer their political differences to make a rent in the domestic hearth. The father has never been wanting in paternal tenderness, nor the son in filial duty.

In the sanctuary of his own household Mr. B. displays his best qualities and feels his purest joys. These joys, however, have not been unmixed with affliction. In 1846, he followed to the grave an amiable and accomplished wife. He has also buried four children. He was married again in 1848.

Mr. B. has always been a man of pure private life. His habits, from his youth, have been good—sober, studious, fond of retirement, and devoted to business, he has been entitled to respect. The writer is gratified to add that his devotional feelings have not been uncultivated: his domestic afflictions have had a softening influence upon his heart: he made a profession of religion in 1846, and united with the Protestant Episcopal Church, of which he is still a devoted and active member.

He has scarce entered upon the prime of life, and if his existence here be prolonged, doubtless his most useful days are before him. He may yet do much to advance the interests, illustrate the character, and promote the honor of his native State.

HON. EBENEZER STARNES,

JUDGE OF THE SUPERIOR COURT, MIDDLE DISTRICT, GEO.

The subject of our sketch was born in the city of Augusta, State of Georgia, on the 19th day of March, 1810. His father, Daniel Starnes, was descended from English and Puritan ancestry. The name Ebenezer, given to the son, is indicative of the Puritan origin. The family name was originally spelt Stearns, as we believe it is still spelt by a northern branch of the family. The orthography of the name was changed by the Southern members of the family, to suit somewhat the broad Virginia pronunciation of the word. The grandfather of the Judge—for whom he was named—spelt the name indifferently Stearns or Starnes. He was a Whig, and removed to Georgia, during or about the time of the revolutionary war. His father, Daniel Starnes, was a gentleman of some literary attainments, and was, for a number of years, editor and publisher, in connection with his brother, Dr. Saml. S. Starnes, of a weekly journal, printed in Augusta, which took the republican side in politics, and was known as the "Mirror of the Times." He died, while yet young, in the year 1814, leaving his family in easy circumstances.

The mother of Judge Starnes, Harriet Russell, was the daughter of Capt. Thomas Commander Russell, an officer of some distinction in the Continental arm of the Revolutionary service. He was a native of South Carolina, and descended from an English family of that name, which numbered among its kindred that patriot, whose character, in an age of universal corruption, was almost alone unstained by bribery, and who died upon the scaffold, at once a martyr to his love of liberty, his popularity, and his virtues.

After the death of his parents, Ebenezer was taken to the home of his uncle, Dr. Starnes, who had removed to Tennessee, where he remained a few years. During this time, much of his father's estate, which had been entrusted by the law to strangers to his blood, was so wasted that, on receiving his education and profession, and arriving at manhood, he had to struggle with straitened circumstances.

Returning to Augusta, he was prepared for College at the Academy in that city, chiefly by Mr. James P. Waddell, now Professor of Ancient Languages in the University of Georgia. He entered the latter institution in August, 1829, and graduated in August, 1831.

Shortly after his return from College, he entered upon the study of the law, in the office of Gen. Thomas Glascock, formerly a prominent member of Congress from Georgia, and a distinguished advocate; and was admitted to the bar in May, 1832. He was immediately taken into partnership by Gen. Glascock, with whom he continued associated in the practice of the law until the removal of the General from Augusta in the year 1841.

While associated with Gen. Glascock, as early as 1834, when Mr. Starnes had been at the bar between two and three years only, upon the resignation of Chas. J. Jenkins, Esq., he was appointed Attorney

General by the Governor. He was afterwards twice elected to that office by the Legislature.

At an early day, he became distinguished as a criminal lawyer, and his success as a prosecuting Counsel soon attracted to him a practice on the civil side of the Court, which continued steadily to increase until his elevation to the bench. He was elected by the Legislature, in 1849, Judge of the Superior Courts in the State for the Middle District.

Having thus briefly chronicled, in their order, the successive events connected with the advancement of Mr. Starnes to the bench, a cursory notice of some of the cases with which he was connected would be here, perhaps, most appropriate.

While at the bar, he was the leading counsel for the plaintiffs in the case of Beall *et al.* vs. The Executors of John Fox, which was taken by writ of error to the Supreme Court. This was one of the most important cases which ever occurred in our Courts, not only on account of the amount involved, but of the principles to be decided. The testator, Fox, had bequeathed a large residuary legacy to several charitable associations, corporate and unincorporate, in various parts of the U. States, and the legality of the bequest was contested by his heirs at law, the plaintiffs in error.

The argument of Mr. Starnes, in this case (4. Geo. R. 407), will compare favorably, both for method and learning, with any ever delivered before that Court. The points made were numerous as well as new, in our Courts, and involved, in their discussion, the whole history of our jurisprudence, Colonial and State, the fundamental principles of English Chancery powers, their application to our system, and the force and effect of various English statutes upon the disposition of bequests to charities by our Courts.

The point of chief significance to the public involved the question—Whether or not our Courts of Equity, created by statute, and, to a certain extent, limited by statute, could assume other powers than those expressly granted or adopted from the English Chancery by statute? By an exhaustive analysis, the Counsel, in our opinion, demonstrated that jurisdiction over charities had not been delegated or adopted by our Legislature. The answer of the Court to this seems to us little better than an honest effort to escape the inconvenience of a *casus omissus* in the law. The logical inconsequence of this decision is not its only or its worst aspect, for, in our opinion, it was a palpable aberration from that principle which should be the polar star in giving effect to those enactments, upon which must depend all popular institutions, viz.: *A strict construction of delegated powers—judicial as well as legislative.*

This is one of the few of the luminous (we may add voluminous) decisions of that Court from which we respectfully dissent; and one the less to be expected from a Court than which there is not, perhaps, a judicial tribunal in the U. S. that with more manliness repudiates the superstitious doctrine of *nulla vestigia retrorsum*, or one less inclined to perpetuate error under the sanction of judicial *forms.*

The writer of this memorial has not been habitually an attendant upon the courts over which Judge Starnes presides, and for several years has had but rare and casual opportunities of personal intercourse with

him. He cannot undertake, therefore, to notice the numerous decisions which the Judge has been called upon to make in the discharge of his office; and which have met with remarkable acquiescence on the part of the very able bar over which he presides, and the sanction of the Supreme Court. One or two of these, however, which have been published, and are of general interest, and which were acquiesced in by counsel, and never appealed to the Supreme Court, we will notice.

In the case of Blount *vs.* The Mechanics Bank, after a careful examination and comparison of all the cases which are somewhat inconsistent, he decided, that the half of a bank-bill, divided without fraudulent intent for transmission by mail, and in the hands of a *bona fide* holder may, upon proof of the possession of the original note, be recovered in Equity.

The case of the Justices of the Inferior Court of Richmond county *vs.* the Mechanics Bank, and other banks, has been recently decided. In this case, adhering to the doctrine which, as counsel in the Fox case, he had so ably expounded, he laid down the rule that all tax laws whose effects are to deprive the citizen of his property, must be taken *stricti juris*, and *arguendo*, said, that "all the substantial pre-requisites must be complied with, before the Inferior Court, or its officer the Collector, can deprive these defendants of their property; and no derivation of authority to the Court or Collector to act in the premises by implication or presumption, is proper. And the agent, that is to say, both the Court and Collector in this case, must pursue the power as granted, or their acts will not be sustained."

As the subject of our memoir was for a short time connected with one of the events in the military history of our country, it may add somewhat to the interest of this sketch for us now to retrace our steps, and glance at some of the incidents of this part of his life.

In the commencement of the year 1836, the news of the outbreak of the Seminole Indians reached our citizens. It was speedily followed by accounts of the butchery of helpless women and children upon the Florida frontier. Next, in quick succession, came the appalling account of the massacre of Major Dade's command. The savage and sanguinary character of the insurrection, and the helpless situation of the people on the Florida frontier, appealed loudly for immediate succor. It was responded to with great enthusiasm by the citizens of Augusta, and a volunteer company, of which Judge Starnes was the First Lieutenant, offered the services of about half of its number to march immediately to the seat of war. With the other officers Lieut. Starnes took an active part in the movement. The company was recruited to the number of one hundred and twelve rank and file, and in a few days were on their way to Florida. The service experienced by this corps, the first to reach the scene of hostilities, was very severe in that inclement season; unprovided, as they were, with the ordinary camp equipments, in the heart of an unexplored wilderness, almost without provisions, and surrounded and barricaded night and day by a stealthy and treacherous foe. The volunteers encountered all the trials and hardships of an Indian campaign, under the worst possible circumstances. From the gown and arm-chair of the law office, Mr. Starnes found himself removed to scenes that tried the courage and endurance

of veterans. His situation was one to bring out the true qualities of the man; and it was here that, by his firmness, uniform kindness, and devotion to the honor and interests of his corps, he first most prominently exhibited that character for decision and integrity which time has confirmed.

On the 22d of February, the company then being at Fort Drane, which was occupied by the gallant Gen. Clinch and his wounded veterans of the Withlacoochee, the anniversary of Washington's birthday was celebrated by the corps, with permission of the commanding General; the officers and army being invited to join in the celebration. Lieut. Starnes delivered the oration, at a few hours' notice. It was eloquent, happily adapted to the occasion, and calculated to inspire the enthusiasm of the patriot soldier. Warmly applauded by the entire army, it was by many pronounced a *chef d'œuvre* in that species of oratory. Its success may be fairly judged of by the following sentiment given by Capt. (then Lieut.) Prince, of the U. S. Army, at the dinner which ensued, which we find published in the proceedings:—"*The oration in the wilderness, on the birthday of Washington*, a glorious exhalation out of the bosom of nature."

We cannot afford the time or the space to record the events of that campaign, with which Mr. Starnes was connected, and if we did, the interest would scarcely repay the reader for the perusal; for it was a war in which service was chiefly suffering, and its rewards the glory of physical endurance. Such was the opinion entertained by one—as the following little anecdote will illustrate—himself much accustomed to the hardships of service. On one occasion, after a continuous and harassing march of a day and night, from Fort Drane to Fort King, the Lieutenant had thrown himself down in his overcoat on the plank floor of a dirty barrack room, and had fallen asleep. He was aroused by the familiar voice of an acquaintance; and, half rising, he beheld the stately form and unkempt whiskers of Col. (now Major-General) Twiggs, of the U. S. Army.

"How is this, Mr. Starnes—what are you doing here? Are you not Attorney-General at home?" said the gallant Colonel.

"Yes," replied the Lieutenant, "but the gown has yielded to arms, this time, Colonel."

"Well," said the Colonel, "I'm inclined to think that arms have gotten the gown into a ——— uncomfortable scrape."

This was a point which the Attorney-General militant was not just then prepared to dispute, we suspect.

It is the well established province of biography to sketch the distinguishing and salient points of character. But when the living becomes its theme, it involves a point of equal delicacy to the writer, and of embarrassment to the subject of his story. Eulogium is apt to appear fulsome to the public, and yet to have one's

> "faults observed,
> Set in a note-book, learn'd, and conn'd by rote,"

is not always expected at the hands of a friend. But we have received *carte blanche*, and shall enter upon the task, we trust, with becoming

impartiality, assured that nothing is more likely to be read with interest, than that which is written with candor.

The character of Judge Starnes' mind is eminently inductive and analytical; there is nothing about it startling, or electrical. Slow and cautious, even to fastidiousness, in his premises, he reaches his conclusions with the most pains-taking accuracy. His "fancy is tame," and it may be truly said of it, that it "waits upon the judgment." He never contents himself with brilliant analogies, so apt to captivate the undisciplined mind. For himself he digs into the mine of truth, and makes no account of the reputation often gained by a mere brokerage in the precious ore. He recognizes no authority but that which carries with it its own inherent sanction. He measures the shoals and depths of his subject with the line and plummet of reason, and if ever man was, is willing to follow her behests, "uncaring consequences."

His method of judicial argument, we think somewhat defective. There is often a perplexing accuracy in the division of the subject, and always a pertinacious determination to take as little as possible for granted—to fix the exact metes and bounds of all preliminaries—and to exhaust all collateral objections. This method may be traced to his predilection for the exact sciences, in which it is indispensable. But in law, as in ethics, our most vigorous conclusions are but approximations, and admit not of so rigid a system.

His taste is severe and critical. He has devoted much of his leisure hours to psychological studies. He has dipped into Hobbes. He has followed through its ethereal sinuosities the philosophy of Berkeley, and paused before the endless but connected chain of being of Spinoza. He has caught the spirit of Plato's writings, and lingered over the primary conceptions of Descartes. But while he has bathed his heart, and cooled his head at these fountains of thought, he has been misled by no mysticism from a catholic faith in the spirit of Christianity. Though his creed is not regulated by the formulas of exclusive faith, we have reason to believe that his heart abounds with true devotion, and that his philosophy is the

"Universal heir of all humanity!"

Of his style, and method of reasoning on moral subjects, a favorable specimen may be found in a little treatise, which is a critical examination and *resumé* of the testimonies to Christianity, (independent of the dogma of inspiration,) by which the existence on earth of the author of Christianity, and the authenticity of his recorded teachings, are established. It was first delivered as a lecture. But the best production from his pen, in our opinion, is a treatise on what may be called the Berkeley theory. This essay, (delivered also as a lecture,) is characterized by a deep vein of philosophy, and abounds in fine thoughts and happy illustrations.

His temper is quick, and somewhat impatient of contradiction; and we have noticed the effort which self-control sometimes costs him in the discharge of his official duties, and have marked the evidence which such control bore to his lofty sense of duty. His social qualities are not of the *bon vivant* stamp, nor has he that easy susceptibility which lends itself, or pretends to lend itself to the trifling, or selfish opinions

of the world, and which flutters into admiration at first sight. He has not that "indefatigable smile," and the everlasting profession of interest which marks "popularity." But nothing is lost. What he lacks in these "compliments extera"—this conventional hypocrisy—is made up with *sincerity* in his measured but steady personal attachments.

Judge Starnes in stature is about the middle height. His features are more regular than striking, and his hair, which has not yet been thinned by years, is of a brown color. With an appearance almost youthful, his countenance wears an expression of languor, and his face

"Is sicklied o'er with the pale cast of thought."

Judge Starnes was married in November, 1844, to Miss Mary Anne W. Nesbitt, daughter of the late Hugh Nesbitt, Esq., of Augusta. They have only one child living, a daughter.

Of the future usefulness of Judge Starnes, we have an assurance in his tastes, his unremitting industry, and his sufficient means. His future judicial or political elevation, however, must in a great measure depend upon the exigency of party, we suppose. The Democratic party, to which he has always given a quiet but steady support, has been for years in a hopeless minority in his district, and it is not likely —unaspiring to office as he is—with the noble virtues which adorn his character, (which cannot always command success,) that he will ever yield any principle for the reward of office; so that upon the interests of others, rather than his own, will probably depend his future promotion.

JESSE TURNER,

OF ARKANSAS.

Success has universally been the attendant of that person whose discrimination has enabled him to suit a proper action to every situation in life. The past career, the present position and character of Jesse Turner, the subject of this brief memoir, indicate how he has appreciated and acted in the circumstances that have surrounded him.

The ancestry of Mr. Turner were Irish. His grandfather James, a highly respectable farmer, emigrated from the north part of Ireland and settled in Lancaster county, Pennsylvania, about the year 1760. The maternal branch of the family, by name Clendenin, were also from the same part of Ireland. Soon after the settlement of the grandfather in Lancaster county, James, the father of Jesse, was born. About the year 1765, the family removed to Orange county, North Carolina.

The spirit of independence and liberty was exhibited in the Turner family before the revolution. In that serious and singular outbreak against the courts and lawyers of North Carolina,* the elder James participated. He fought at the once famous battle of Alamance, and

* See Williamson's History of North Carolina.

acted as a "Regulator" in all the noted and daring incidents of the rebellion.

In the war of the revolution which soon after followed, the younger James underwent the hardships, privations and misfortunes that were companions of the American soldier in those days of tribulation. He fought under Greene on the bloody field of Guilford Court House. He served in expeditions against the tories, and was prisoner for six months in the horrid dungeons of the British at Charleston.

After the revolution he remained in Orange county, an independent cultivator of the soil. He is yet living, honored with that affection which the noblest and purest of earth must envy, which follows our father patriots beyond the grave, and lasts with immortality.

In Orange county, the subject of this memoir was born; and there at Salem meeting-house, under the tuition of Daniel Turrentine, he received the rudiments of his education. Upon leaving school his choice of professions fell upon the law. Accordingly, in the vicinity of Chapel Hill, under the direction of the late Wm. McCauley, Esq., he entered upon and pursued that study with such close application and success that a license to practice in the county courts was granted him at the termination of a year. Another twelve months placed him in possession of a license to practice in the Superior Courts. His reading during this time was continued under the guidance and advice of the late Hon. A. D. Murphy.

Being now a full practitioner, Mr. Turner commenced the prosecution of professional duties in his native State at Waynesboro, in Wayne county. But looking abroad, an ampler field for his exertions was presented in the new territories of the West. It is now twenty years since he emigrated to Arkansas. His arrival was at that time when rude log huts, scattered at far distances, marked the abodes of civilization; when the practice of Courts was unsettled, and juries gave verdicts that illy accorded with "law and evidence"; when crimes and misdemeanors prevailed to an extent that blackened the character of the territory, and often furnished the journal of the North and East with ludicrous or horrid paragraphs.

Mr. Turner, a stranger stripling, without money or friend, without experience or advice, began the practice of his profession at the seat of justice of Crawford county. But sound judgment, quick apprehension, and a determined will, gave him an immediate introduction to the favor of the people. The popularity he acquired at that early day, he yet retains. He was once elected to the General Assembly of Arkansas, and as a member attained the highest distinction. In 1840 he took an active part in the great Presidential contest. At the Whig Convention held at Little Rock in that year, he was called to preside over its deliberations by acclamation. In 1841 he was selected by Hon. John Bell, Secretary of War, as one of the Committee of Visitation to attend the examination of Cadets at West Point, but was prevented from being present by indisposition.

In 1842 Mr. Turner was married to Miss Violetta P. Drennen, of Pittsburg, Pa. This young lady was beautiful in person, accomplished in mind, and endowed with every amiable trait that renders woman beloved. But in a few months her husband was called to mourn at

her tomb. He yet remains unmarried, saddened by the stroke that broke asunder his affection from the wife of his tender love.

In the Presidential canvass of 1848, Mr. Turner was chosen one of the Whig Electors for Arkansas. He canvassed the western and northern portions of the State, battling with eloquence and enthusiasm for the principles of his party, dealing staggering blows to every opposition arrayed against him in the "banner State of Democracy."

The Western Federal District of Arkansas was created by an act of Congress in 1851. This District comprises a vast extent of Indian territory from New Mexico to the western boundary of Arkansas. The Court at Van Buren is one of the most important in the west. Mr. Turner, without solicitation on his part, was tendered the office of Attorney for the District by the President. He accepted it. His duties are arduous and important, but his capacity enables him to fulfill them with efficiency and ease.

He never sought an office. When on a visit to the North in the spring of 1841, intending to pay his respects to the President, he arrived at Washington. But General Harrison was no more. He however called on Mr. Tyler, who disposing of the eager office seekers that thronged the White House, turned to Mr. Turner, inquiring blandly what office he desired. Mr. Turner arose immediately from his chair, and remarked with warmth, "Office! good heavens, sir! I want no office whatever, and wish not to be considered, sir, in that class that prowl about you seeking the spoils of our Government." Capt. Tyler was headed. A man desiring no office was a curiosity rarely witnessed by him.

The circumstances which have surrounded Mr. Turner have been unfavorable to the acquisition of a general knowledge of literature. But to him they have not been obstacles. His reading has been extensive in many departments. The classics are to him familiar as household words. The pages of our poets have been transferred to his mind, and the light and passing productions of the day have even sometimes been observed. Science, history, and the varieties of letters have been considered embellishments that adorn his favorite profession. The politics of our own land and of England have always been subjects of his attention, secondary only to law.

His personal appearance is indicated by the portrait that accompanies this sketch. In that likeness it would require no strict scrutiny to perceive intelligence, firmness and independence,—the prominent characteristics of his mind. He has maintained on these bases a firm standing since his arrival in Arkansas. His practice during the last fourteen years has been large and important. In habits of business, he is punctual and precise when acting for others, but indulgent and unexacting when demands are in his own favor. He has undergone the difficulties that in new countries oppose civilization, and has been tried in every situation that can test him as a lawyer or man. In practice in courts he never overreaches, never falls short. In the most complex case, unruffled by arrogance or artifice, he pursues his end without faltering through every intricacy, scanning every point in every light and shade. In the discussion of politics he is bold and manly, severe and eloquent; yet he has drawn encomiums from his

bitterest opponents, and gained support among the most violent partizans of democracy. In personal peril he has borne himself with effective determination, and with a nerve that steadied with increase of danger.

Mr. Turner is in easy circumstances, though through life he has manifested uncommon unconcern for the accumulation of property; a lover of life's good things and a voracious consumer of them. Of easy and peculiar manners, and kind disposition, his social qualities endear him to friends. When unconfined by the business of his office, or not absent upon a political campaign, he devotes himself to the companionable society of acquaintances. At times, and particularly when stirred by important events, he becomes abstracted, and may be observed revolving an address in his mind, or overturning the theory of an opponent. But whether declaiming as a Fourth of July orator to illiterate, homespun "sovereigns," amid the virgin forests of the West, or as an able defender or powerful prosecutor at the bar; whether as the eloquent champion of his party, or the gifted conversationalist of the fireside, his deportment, dignified and respectful, is precisely suited to the occasion in which he acts. He mingles in all crowds, from those that gather listening to the lectures of Maffit to those that stare at the wonder-dealing, itinerant mesmerizer. In liberality he is conspicuous. No subscription paper calling for the improvement of Van Buren, where he resides, passes the door of his office without an additional donation of funds; no petition of charity for want and suffering that is not kindly and generously answered; and there is not a church whose Sabbath peal is heard in that town that does not stand upon his dollars.

In temperament he is peculiar. To the stranger he may sometimes appear reserved and distant, from his usual elevated bearing; but to friends, a subdued enthusiasm is visible in conversation and action. A deep current of strong feeling sweeps beneath the surface of his self-possession, and if for a moment excited to an unguarded expression of undue warmth, discretion as soon assumes its wonted command of his feelings. No reproach of dissipation, no undignified or dishonorable action, no stain of trickery clings to his character. Among those who know him personally, or by reputation, in Arkansas or elsewhere, either illiterate or learned, rude or polished, he stands the Bayard of his profession, "without fear and without reproach."

HON. JAMES B. COLT,

OF ST. LOUIS, MISSOURI.

It is said that Erostratus fired the temple of Diana at Ephesus, with a view of making himself known to posterity, and to immortalize his name, but in this country, and in this day and generation, the operative words for success are "faith" and "labor," through which every man may realise the fruits of an honorable ambition. One is the star above us, the other the ladder upon which we tread.

James B. Colt, the subject of this notice, was born in the city of Hartford, Conn., the 16th of October, 1818. He is the son of the late Christopher Colt, Esq., deceased, by his first wife, Sarah Caldwell Colt, daughter of the late John Caldwell, Esq., of said city.

The name of Colt is uncommon, and was originally spelled with an "u," Coult, up to the time, as the chronicle of the family runs, when Sir John Coult had three horses shot under him in battle, since which the "u" is left out, with the exception of one instance, in the case of the uncle of the subject of this notice, an old-fashioned republican farmer of Vermont, who spelled his name with an "u" up to the time of his death.

Our subject was of a religious protestant family upon both sides. He has two brothers living, Col. Samuel Colt inventor, and Christopher Colt of N. Y., and is a cousin of the Hon. Dudley Selden, of N. Y.

The Rev. William U. Colt, who died in 1849, was a half brother, and John C. Colt, who died in N. Y., in 1842, was an own brother.

We think we have said sufficient upon the score of identity, and shall now proceed to discuss the merits of the subject, and in doing this we shall not run through a list of anecdotes, illustrative of this or that characteristic. We do not think it right in legitimate biography, and are sure it would not meet with the approval of him who is the subject of this notice.

Young Colt had for his instructors, Prof. Sales, Jesse Olney, the author of several school books, Hall, also the author of several books of a like character, Jacob Phelps, Brigham, Dwight, and Knowlton, and from one of them we extract from a letter recently received, regarding his boyhood.

"My first knowledge of James B. Colt excited in me more than common interest. He could not have been more than ten or twelve years of age, and his appearance indicated melancholy and constitutional disease. He got his lessons without difficulty, and when stents were given to the scholars, after the accomplishment of which they were permitted to leave school, I do not remember an instance in which he was not the first to leave. I could give many anecdotes regarding his boyhood if it were necessary; one circumstance will illustrate a characteristic of the boy. A disturbance occurred in the part of the school-room where he was sitting. My attention was called to it, and it so happened that the responsibility of the thing, without mentioning what it was, rested on young Colt. He was called up, and upon being questioned, what was the cause of the difficulty, made no answer.

"Upon accusing him of it, he was silent, for which he received a severe feruling, and was sent to his seat. It turned out that * * * * * * * was the one who caused the mischief, and Colt would not expose him. He is an extensive merchant in St. Louis at this time."

If there is a person on earth that has been made by his own exertions, that man is the subject of this narrative. Not so entirely, for there is in truth no such thing as a self-made man. God makes them. It is the untiring energy of the soul within, the faith-hidden monitor, that impels the man onward, that makes him. No man living but has a desire, a strong desire, something within that he hopes for in this

world. If it becomes a ruling passion, and everything is subservient to it, and the man is true to himself, he is bound to succeed. It matters not what may have been his condition in life, if he has a soul-stirring desire, guided by the omnipotence of truth, which, electricity like, follows every thought and action of the man, if life and constitution are spared him, he will wear the "garland of victory."

If we reduce to a principle those influences which were daily inculcated at the board and hearth of the home of our subject, aside from those religious teachings characteristic of every protestant family in New England, we will find that the word "self-reliance" will convey something of an idea of that principle.

Throw a boy on his own resources early in life, is or was the prevalent maxim of the New England fathers.

When our subject was fourteen years old, he had formed a passion for military life, stimulated by an incessant study of history. His parents opposed it, first upon religious grounds, and preferring that he should be a merchant or manufacturer; and secondly, upon the ground of the difficulty of securing an appointment at West Point, or a Commission in the Navy.

Young Colt thought if he could procure the commission or appointment, he would be able to overcome the first objection; to this end he wrote to several men of influence who were acquainted with his family, for letters recommending him to the favorable consideration of the government.

When all was ready, he started for Washington, without his father's knowledge, and presented his claims in person. The Hon. Levi Woodbury had just been appointed Secretary of the Navy, and he thought our subject was "a little too tall to walk between decks," but Mr. Secretary Cass treated the matter more seriously, and had his name entered as a cadet applicant. Time rolled on, but no appointment came.

In the mean while our subject was not idle.

During the next four years he spent his time in such studies and readings as were calculated to be of future use, while his recreation was that which is found in the whirl and excitement of fashionable life. With this he soon became tired, his health began to fail him, and the pecuniary misfortunes of his family made his life very unhappy. In the midst of these trials we find him forming the resolution to make himself master of the law. But he is threatened with consumption, of which disease his mother died, when he was but four years old, and a sister had been taken off with it. He goes to the South.

And here let me notice a little incident which the public may not feel any particular interest in, but which made a lasting impression upon the mind of young Colt. A trivial circumstance—but how often do they make or unmake the character! Upon the morning when he was to start for the South, the family as usual, and as is the custom with many families in New England, were kneeling at the altar. Not in the spirit of bigotry, his father poured forth his very soul, and when he came to speak of his child * * * * * *. Shall we go on? No, we have seen the prayer in the journal of young Colt, noted at the time.

Our subject lived in Savannah, Georgia, for nearly two years in the employ of G. B. Lamar, a man of great wealth, now living in Brooklyn, N. Y., and spent his leisure hours in reading Blackstone. He went through an acclimation at the South, which nearly cost him his life. His health still feeble, he left Savannah for New Orleans in the fall of '35, and his physician advised him to a sea voyage.

The Georgia battalion was about sailing for Velasco, Texas; he, in company with John T. Lamar, went with them.

In Velasco he made the acquaintance of Col. Fanning, and returned to N. O. on business for the Colonel, who immediately started for Copeno. Shortly after Colt's arrival at New Orleans, and while he was still confined to his room, for he had not recovered his health, he got news of the massacre of Fanning and all of his men. The Col. tendered to young Colt the position of aide-de-camp.

In the spring of '36, our subject sailed for N. Y., and spent the following summer in Hartford and in Paterson, N. J.; and in the fall of that year entered his name in the law office of Messrs. Hungerford & Cone, at Hartford, as a student at law.

In the summer of 1840, he was admitted to the bar; but up to the day of his examination, though his father knew of his reading law, he did not know of the progress or examination, till he saw in the newspaper that his son was a member of the legal profession. Of course the surprise was agreeable.

In the fall of '38 or '39, our subject was one of the managers of the Fair of the American Institute in N. Y.; and the same year, by invitation, he delivered two lectures at the Franklin Institute, Philadelphia, which were afterwards published in the New England Weekly Review.

In the summer of 1840, Mr. Colt had nearly completed his arrangements to go to Europe with his brother, Col. Samuel Colt, "the best brother in the world," with the intention of spending two years upon the Continent, but this plan fell though; and in the fall of that year we find our subject in company with Albert Dodd,* his future partner, who had also been admitted to the bar, starting for the West, and landing in St. Louis, Mo.

There he pursued his studies and profession with unceasing fidelity, up to the time when he was placed upon the bench. There were four competitors in the field, two put in nomination against him in the House of Representatives,† and he was nominated upon the first ballot, receiving a majority of the whole number of the Lower House, and was confirmed by nearly the unanimous vote of the Senate, as Judge of the St. Louis Criminal Court, a high and most responsible station, and one which he has filled to the marked satisfaction of the community of St. Louis, as will be seen in the sequel.

The road to fame and fortune was now fairly opened before him.

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* Mr. Dodd was a graduate of New Haven, and at the law school in Cambridge. He was the partner of Judge Colt for two years, after which he located in Illinois. Upon returning from a political convention, whilst attempting to swim a flooded stream, he was unhorsed and drowned. The world could better spare a better man.

† The nominations were made by the House, and not by the Governor.

The thousand impediments that so frequently check the aspirations of struggling genius were now happily surmounted. Nothing remained but to discharge with honesty, diligence, and ability, the arduous but highly honorable duties that devolved on him in his new situation, in order to raise him to the most enviable position, and to entitle him to the universal respect and high consideration of all who knew him.

Entering his judicial career with the spirit of energetic industry, and with the heartfelt and honest determination of using the force and power of the law for the only and sole object of protecting the weak and innocent against the depravity of the wicked and the oppression of the powerful, and of punishing the guilty, it was but a short time before he commanded the respect of the community.

Indeed, notwithstanding the youth and inexperience of Judge Colt, he soon established a character equal to the respect which is paid to judges far his seniors.

Positions of high rank and responsibility are only to be obtained by great talents and firmness and industry. It was not long before our subject was to be put to the test in these respects.

The city of St. Louis was about this time infested with a set of bold and reckless characters, who openly defied the law. They gave the authorities great trouble, and went so far as to threaten to fire the city, if certain ordinances of the Council respecting vagrants were enforced.

Already had the great fire and cholera impoverished and made desolate many of the inhabitants, who but yesterday were in all the high hopes of promising manhood.

We give an extract from the admirable charge given by Judge Colt to the Grand Jury on this occasion.

"*Extract from the Charge delivered by Judge Colt, to the Grand Jury, July, Adjourned Term,* 1849.

* * * * * * * * *

"In giving you the condition of the county at this time, there is associated with the task the mingled feelings of pleasure and pain.

"Of pleasure, that we are permitted, once more, to go on with the regular business of the court without the fear of interruption from the ravages of the epidemic.

"Of pain, that so many, not tens, nor hundreds, but thousands of our industrious population have been swept away by the ravages of the dreadful scourge. The spirit epidemic came not with warning to a particular class, admonitory in its character, and chastening in its results, but has mowed down with an undulled scythe the inhabitants from all classes and every condition in life. Is there a person in the whole city that has not been called upon to mourn, to visit the sick, or to bury the dead? Had the city been besieged for a hundred days by an invading army, with a loss of five millions of property and seven or eight thousand of its population—a large proportion—old men, women and children, there is not a citizen of the whole country but would have bended his knee in humiliation, for our safe deliverance.

"It will be proper for you to bear in mind the condition of things through which we have passed during the last ninety days, in passing upon many cases that may come before you. Crime, generally, walks hand in hand, and is a concomitant of "plagues, pestilences, and famines." A city in flames gives additional opportunity. The wicked and depraved men of society, regardless of all moral duty, and destitute of the more elevated teachings of humanity, take ad-

vantage of the general distress which pervades in every direction, and when the good citizen is off his guard, perhaps in the discharge of some office of kindness, the despoiler comes and the law is violated. The public journals have given instances of thefts committed in the dwellings of families, every member of which have been swept off by the cholera; committed, too, while the bodies were lying unburied. It is to be feared that there have been too many cases of this character, and such criminals, when brought before the tribunals of the country, should be dealt with, with the utmost rigor of the law.

"So too, on the other hand, there are cases of persons who have committed a violation of the law, when goaded on by some direful necessity, such as the want of necessaries of life. It is to be lamented that cases of this character should occur in a country so abundant with everything contributing to long life, health, and enjoyment. Nevertheless, it is an evil of large communities in any country, and arises from the extreme wretchedness and destitution of a small portion of our inhabitants, possessing too much pride and too little courage to make known their necessities.

"Such cases may come before you, and it is hardly necessary for me to say, that you should exercise a sound discretion in passing upon them.

"What makes a criminal? and what is the effect of a criminal prosecution upon the mind and future character of the prisoner? Does crime arise from natural depravity,—the influence of early education, or rather the want of it,—or from the ascendencies of life? These are questions proper for your consideration.

"The summer of '49, so full of every thing calculated to dishearten the most courageous, will long be remembered by the citizens of St. Louis. We shall rise above it, phœnix like; nevertheless, we cannot forget. It will afford the darkest and brightest page in the history of our city. The hand of charity extended here, there, and everywhere, by the benevolent institutions and societies of all religious creeds, and of all brotherhoods, and by the rich and poor of all classes and conditions in life, will speak nobly in our behalf. Dreadful has been the suffering, but it could have been more so. As I have said before, crime is a concomitant of great calamities. There has not been so much of it as was to to be expected; though, at the time of the great fire, and shortly afterward, and within the last few days, there has been a startling increase. This is to be accounted for from the active exertions and constant watchfulness of the officers of the court and of the city police, many of the latter of which have fallen victims to the prevailing epidemic. Too much credit cannot be bestowed upon them for their commendable exertions.

* * * * * * *

We see the consequence of neglecting to enforce the statute, in the more bold and diabolical threat, that if certain ordinances of a vagrant character are enforced, the city is to be fired in five or ten different places for every conviction. Can it be possible that we have in our midst persons of such despicable character?—men destitute of every feeling and impulse that constitutes a good citizen, with minds alone bent on mischief? The crime of arson is one of the heaviest upon the calendar, and he who would wilfully perpetrate it under such circumstances, will not stop at that. It may be, and it is to be hoped probable, that the notice to which I refer was the work of a mischief-maker, and not the offspring of a bad intent,—an effort to startle, but not to execute. In any way it can be looked upon, it was in bad taste, calculated to produce evil, and was entirely unnecessary.

"The crime of arson is one of the heaviest upon the calendar. It is not unfrequent that it is more dreadful than murder—and sometimes leads to it. By the torch of the midnight incendiary, friends as well as enemies are involved in the general conflagration. It is sometimes the work of mischief, for the love of seeing the mad element lighting up the gloomy darkness of the night: it is sometimes the work of him who has suffered some supposed injury, of him

who would retaliate, the offspring of a mind capable from its brooding malice to form the stratagem of a diabolical murder.

"The punishment of it has always been severe. Under the old Saxon laws it was death. In the reign of Edward the First, the incendiary was burnt to death; and so too under the old Gothic constitution. The statute of Henry VI. made wilful burning the crime of high treason, the punishment of which was by dragging the body on the ground to the gallows, the victim was there hung by the neck, cut down alive, and while so his entrails were taken out and burned, the head cut off, the body divided into four parts, all of which were at the disposal of the king. The punishment there at this time, is, I believe, death. In New York, Massachusetts, Pennsylvania, Texas, and some of the other States, where the offence is committed under aggravating circumstances, the punishment is death. So too under the laws of the United States. In Virginia it is death without benefit of clergy. In Ohio and Maryland, the punishment is by imprisonment in the penitentiary for a term not more than twenty years, and in Missouri, for a term not more than ten nor less than two years.

"The punishment of this offence, as in other cases, has been regulated by the general principle which regulates the punishment in all criminal offences, in proportion to the enormity of the crime and the difficulty of detection.

"The punishment in this State, as you will perceive, is the lowest of the instances given, and has been so fixed in the exercise of a liberal humanity. It becomes the more necessary, therefore, that you should exercise all due diligence in such cases, for upon the certainty of punishment, more than upon the severity, our safety depends."

* * * * * * *

The views expressed by him in the following extract in his charge relating to riots, will also be found highly interesting and instructive.

Surely there is nothing more dangerous to the good order and well being of a people than the wild and inflammable spirit of lawless violence which is becoming but too prevalent in this country.

It will be seen by the extract that Judge Colt is no friend to such outbreaks, and while the bench continues to frown upon mobocracy in the spirit of the extract, we may feel ourselves safe under the shelter of the law.

"There is another subject that should not be passed over without some comments of a precautionary character. I allude to a riot or certain indications of a riot in the upper part of the city, the particulars of which have not come to my knowledge. If there has been a riot you will indict the rioters. Be they whom they may, they should be indicted. The humblest person in our city is just as much under the protection of the law as the most opulent—the law makes no invidious distinctions.

"Whether fiction or fact, every one is supposed to know what the law is.

"It seems to be plain enough, and there are abundant decisions under similar statutes to our own, attaching the severest responsibility for its violation. 'In riotous and tumultuous assemblies, all who are present, and not actually assistant in the suppression in the first instance, are, in presumption of law, participants; and the obligation is cast upon a person so circumstanced in his defence, to prove his non-interference:' and 'those who continue looking on while the actual rioters are resisting the public authorities, and witness them defeated without striking a blow in aid of the law, are just as much rioters as those most active in the work of violence.' 'To make a man a party to a riot, he must be active either in doing, or countenancing, or supporting, or ready if necessary to support the unlawful act.' 'If rioters resist the officers of the law in their endeavors to arrest them, and continue their riotous actions, under such circumstances the killing them becomes justifiable,' if it is the only probable means of com-

manding the peace. And on the other hand, 'if an officer or his assistant happen to be killed it will be murder, *in all who take part in such resistance.*' It is also laid down, as the law, that when divers persons resolve to resist all officers in a commission of a breach of the peace and in doing so happen to kill a man, they are all guilty of murder, for they must at their peril abide the event of their actions.

"Thus it will be seen that the law, as laid down in some of the States, is very stringent. I am not prepared to say that it would be so laid down here, but enough is seen to show something of what responsibility the law attaches to riots and mobs.

"The causes that lead to them are generally trifling in themselves, but the consequences are often heart-rending, and highly to be deprecated. In this city, composed as it is of persons from all parts of Europe, and of the United States, bringing with them their prejudices and predilections, full of enterprise, but as determined in any and everything they undertake, as good citizens should be prepared at the least indication of alarm. A riot begins and spreads, and is as likely to spring from one as another. The cause is sought for, and a thousand different rumors pass from mouth to mouth. Feelings are enlisted, national and bad passions excited, persons who seek plunder are stimulating it on, and, before we are aware of it, the law, constitution, city authorities, and everything, is trampled under foot by the tyranny of an infuriated mob. It has no reason, nor helm, nor republicanism in it. It is as changeable as a weather-cock, tyrannical as a fiend, susceptible as a child, and cowardly and shy as a wolf. The murderer, assassin, and petty thief go along with it, cheering on the monster, and watching THEIR opportunity. It devours, with a fell spirit, every animate and inanimate thing that comes in its way. Would it change the constitution? No! Laws? No! Or government? No!! But moves on furiously with but one impulse, swayed by but one consuming passion, the spirit demon of revenge. There has been affliction enough, we want no mobs."

Judge Colt has now been upon the bench for three years. During this time many cases of great magnitude, and some of the most thrilling interest, have come before him for judicial investigation.

We cannot of course attempt to give even an outline of all these cases. Nor is it the object of these memoirs to present to the public a digest. We cannot, however, pass over two cases that attracted public attention not only in the west, but more or less throughout the country.

In the month of July, 1849, the funds of the Bank of Missouri at St. Louis were found to be deficient to the large amount of $121,000. Nathaniel Childs, Jr., who previously had enjoyed a high reputation for integrity and talents, and who up to within a few months of the discovery of the defalcation had been teller in the bank, was charged by the officers with having embezzled the money.

He was arrested, the Grand Jury found a true bill against him, and the case was finally set for trial at the November term (of that year) of the St. Louis Criminal Court.

Public feeling ran high on both sides. The officers of the bank naturally felt a great interest in the trial of Childs. Considerations of a personal character, if no other motive, would naturally lead to such interest to the end of having justice done upon the guilty party whoever he might be.

The friends of Childs were numerous and enthusiastic, and fully confident of his innocence and of his certain success in the result of the prosecution.

The ablest counsel were employed on both sides. In this case the Hon. Henry S. Geyer, now U. S. Senator for Missouri, and the Hon. Edward Bates, with several other attorneys of distinction, were pitted against each other, and we need hardly say that every inch of ground was contested with great vigor. Every person acquainted with the Missouri bar must know the fact that the contests are pursued with the utmost vigilance and legal acumen, and indeed, for legal learning and ability, we think we can safely say it is not surpassed by any in the Union.

To steer the straight course among these raging elements was no easy task to any man, much less to one who was yet hardly warm upon the bench.

After a protracted trial of four weeks the jury returned a verdict of not guilty.

And be it said, much to the honor of our subject, his course under such trying circumstances not only met with no rebuke from any one, but on the contrary all seemed to approve of his decisions, and quietly acquiesced in all that he did.

Another case, the most singular and deeply interesting of any that has perhaps ever been brought to public notice, again turned the public gaze to the Criminal Court and again demanded of Judge Colt the exercise of that firmness against the violent outbreak of public feeling.

The Counts Gonsalve and Raymond de Montesguion, two young French noblemen of great fortune and the most ancient and illustrious ancestry, distantly related to Louis Napoleon, the President of France, and nearly allied to many of the most powerful families of that country, were traveling in this country for their amusement and instruction.

On the 22nd of October, 1849, they arrived at the City Hotel in St. Louis, and took lodgings for the night.

There was nothing remarkable in their deportment, but on the contrary, after quietly eating their supper, they retired to the room assigned to them, and all passed as usual until about 11 o'clock at night, when Gonsalve the elder brother seized a double barreled gun, and running out in a fit of insanity, and firing twice, killed no less than two men, and wounded three others, making in all five persons. The unfortunate victims, whom Gonsalve had not seen before, were two young gentlemen, Jones and Barnum, highly esteemed by a numerous circle of friends.

The equally unfortunate homicide and his brother, were soon surrounded and carried away to jail, whence they were removed on the following night to the U. S. garrison, several miles below the city, to prevent a public outbreak against them.

Entire strangers in the city, they were almost universally regarded as impostors and robbers; soon however it became known that they were *real Counts.*

When the case was called for trial, public interest had been worked up to the highest pitch.

The prisoners appeared in company with their brother-in-law Viscount de Cessac, who had just arrived from France.

The amiable countenance and bearing of the younger brother Ray-

mond, excited in the minds of the unprejudiced a feeling of more than ordinary interest; while the melancholy and morbid silence of Gonsalve awakened feelings of the deepest commiseration, affording a circumstance itself of insanity.

That the friends and relations of the deceased should have had their feelings much enlisted, is not to be wondered at. And when such is the case how easy it is for wicked men to work upon the prejudices of the uninformed, until a storm is raised which defies the power of all good citizens to conduct its electricity harmless to the earth. At one time it was feared that even if the jury acquitted them there would be a popular outbreak.

After a trial of six weeks, during which time the Court-room was crowded to overflowing, the jury were unable to agree, and were discharged. Another trial with a like unsatisfactory result was the consequence. They were finally pardoned by the Governor of the State.

During all this protracted trial it is but simple justice to Judge Colt to say his deportment was straight and just, neither bowing to the wild prejudice engendered against the accused nor cringing in the least to the high and influential power brought to bear in their favor. All were well satisfied that he administered justice, to use the language of the Constitution, without "sale, denial or delay."

Our space will not permit us to go into as full a detail of all the actions of this enlightened Judge, as we could wish. As an evidence of his sterling character, when the Legislature made his office, together with every other Judgeship in the State, elective, we would say that in preference to his able competitors he was elected by an overwhelming majority.

In 1846, our subject was married to the granddaughter of the late Benjamin Sterritt of Baltimore.

In the spring of 1845, there occurred an incident, which is a part of the history of the man, and contributes to illustrate his character.

We quote from a notice of his appointment:—

"Judge Colt assumed his seat on the bench of the Criminal Court yesterday morning.

"As we entered the Criminal Court, yesterday morning, our vision was struck with the appearance of another Judge—a tall individual, of grave and sober mien; his new dignity sits upon him as easily as an 'ancient habit,' or an old coat.—*St. Louis Reveille, Jan.* 30.

"The Judge Colt spoken of in the above paragraph, is JAMES B. COLT, a native of this city, and a son of Mr. Christopher Colt. He studied law in the office of Wm. Hungerford, and in 1840 was admitted to the bar in St. Louis. In 1843 his name was proposed at Washington by Hon. Thomas H. Benton, and he was admitted to practice in the Supreme Court of the United States.

"Shortly after his removal to St. Louis, he had a personal difficulty with a Baltimorean, or rather the Baltimorean made it personal, and challenged him to a duel. Colt was opposed to duelling, and was inclined to take no notice of his opponent. But friends interfered, and represented that it was of more consequence than he supposed—and that he ought to fight. The result was an acceptance of the challenge. The parties met, and Colt stood calmly and received his opponent's shot, which wounded him slightly in the hip. He then had his man in his power, and could have shot him through, but did not. Raising his pistol in the air, he discharged its contents at the clouds, showing at once his bra-

very and his magnanimity. He gained friends by his conduct on this occasion, and rapidly grew in public favor.

"We knew him when he resided in this city, and liked his gentlemanly manners, his intelligent conversation, his open-hearted avowal of the sentiments he entertained. He is now only about thirty years old and the youngest Judge upon the Bench in Missouri."

HON. JOHN PEARCE,

OF OHIO.

John Pearce was born in Loudon county, in the State of Virginia, on the 3d day of May, 1803. His father, Abija Pearce, born in the same county, was a farmer, and descended from Maryland ancestors who served in the Revolution. His mother died when he was but three years old, leaving him and a younger brother, Herod, who is still living, her only children.

The father, emigrating to Kentucky about the year 1810, left his two children in the charge of his sister, Mrs. Sally Brady. The care and affection of this excellent woman, the sentiments instilled into his mind by her kindly precepts and virtuous example, are still frequently referred to by the Judge. So fully did she supply the place of a mother to her young nephew, that he remained under her care until he was twenty-three years of age, loth, as he often says, to quit the society of one he loved in every fibre of his heart.

Until the age of fourteen, his only education was such as was afforded by the common schools of the neighborhood. Here, we believe, he made no extraordinary progress, *graduating*, however, at the close of the school, with a fair knowledge of "reading, writing and arithmetic."

At the age of fourteen, he was placed an apprentice in a cabinet shop, where he worked at "the bench" for six years. During this period, he had access to several well stored private libraries. Of this privilege he availed himself with eagerness, and here, doubtless, laid the foundation of that literary taste, and acquired that fondness for the productions of the old English writers which he still retains. His mind, early imbued with a love of books, which the society of a few intelligent families, of cultivated taste, tended greatly to cherish, was soon exercised in literary composition. Contributions, in prose and verse, to some of the country newspapers, afforded not only amusement and entertainment for the public, but that employment for his active and fruitful mind which he could not find in the saw-dust and shavings of the workshop. His reading, although to a great degree desultory, was not entirely without method; and his selections were often dictated by an intelligent friend of superior age. Hume, Middleton, Robertson, Fielding, McKenzie, Richardson, Steele and Addison, Johnson and Goldsmith, he read with great relish. He even cultivated some acquaintance with Bolingbroke and Burkly, Atterbury, Clark and Doddridge; whilst

"the Bard of Avon" and the "Dean of St. Patrick" were by no means strangers to him. Having heard Tristram Shandy spoken of by some of his young associates, as a work of "infinite wit and most excellent fancy," he named it to the owner of one of the libraries to which he had access, a lady of highly cultivated mind and taste. She informed him that the few passages of pure sentiment and chaste humor to be found in this "quaint and curious volume," were too often marred with passages of gross wit and indelicate meaning; that the polished diction of the author, it was considered, but poorly compensated for his lack of decency; and that his clerical robes but scantily covered his dissolute and licentious life. Governed by this hint, Sterne was at once dismissed from his mind, and the acquaintance of that inimitable group—Brother Shandy, Uncle Toby, the Widow Wadman and Dr. Slop—was reserved for his maturer years.

The works of some of the religious controvertists falling into his hands, were perused with great avidity, and, doubtless, gave direction to his mind, and influenced, in some degree, his after life. The great ability, skill and learning displayed in many of these ardent and animated contests, although they did not inspire him with a taste for theology, awakened in his mind a relish for disputation; an aptitude, however, rather than a fondness for controversy, has characterized him through life.

His academical studies were commenced in his twentieth year, at the town of Middleburg, in his native county, and were continued with assiduity for three years. He here familiarized his mind with the Latin classics, and, to a less extent, the Greek, improving a taste already highly refined, and polishing a style already chaste and correct, in a degree generally supposed attainable only at the University.

Having chosen the profession of the law for his pursuit in life, he was kindly furnished with the usual elementary books by Humphrey B. Powell, Esq., a gentleman of fortune and liberality, and a reputable and highly accomplished lawyer, then residing in the town of Middleburg. The little means he was master of being exhausted long before the completion of his elementary studies, to replenish his exhausted treasury, he had recourse to what is still the common resort of the student in the West—he became a *school teacher*. Two advertisements in the *Winchester Republican*, about that time, met his eye. In one of these he learned that Major Seth Mason, residing near "White Post," wished to engage the services of a teacher for his children, to reside in his family. The other was a notice of the Hon. H. St. George Tucker, in relation to the Law School, then established by him at Winchester. These seemed to offer what he was in search of, intellectual culture and the means of living. Add to these the fact, that his heart was already attracted towards that flourishing town by the benign influence of a "bright particular star," and we may readily conjecture that he was not long in determining what course to direct his steps. "The glance that undid" his "repose" had robbed his native hills of half their charms; the pages of Cicero and Virgil grew dim before his eyes; and he could find "no law" in Blackstone that seemed to favor "a recovery" in Loudon. The satirist says:

"To be wise and love,
Is hardly given to the Gods above."

But here, elated with hope, the boon seemed, for once, within human grasp, and he fancied himself favored beyond the common lot of mortals. Never had Academic groves and bowers of joy appeared in such close proximity. How long this "gay vision of unreal bliss" continued to delight his fancy, we are not informed. The solace of the Academy he realized, but his "bowers of joy" turned out "a madness and a mockery."

He engaged with Major Mason, and entered his family as private tutor. This situation he retained for nearly two years, and the time here spent is still referred to by him as the happiest period of his life. His

"Delightful task to rear the youthful mind"

was alleviated and varied by rural sports, refined society, friendship, love and books. The elegant sufficiency and unbounded hospitality which characterize so many parts of eastern Virginia, are nowhere found in greater profusion than in the vicinity of "White Post." To the genial influence of this charming region we may doubtless trace that fondness for society, and that capacity for friendship, which are still distinguishing features in the Judge's character. During his sojourn with Major Mason he did not apply himself very closely to "the law's grave study," yet he occasionally looked into the books. The natural sciences and the classics occupied his mind both as preceptor and student.

In the winter of 1827 he repaired to Winchester, and resumed his legal studies in the flourishing law school of that place. The class he entered was composed of thirty-six students, many of whom have since distinguished themselves in the fields of politics, literature and law. Among these it cannot be deemed invidious to name Hon. W. Cost Johnston, Hon. Henry A. Wise, and Z. Colluns Lee, Esq. The worthy chancellor, to whose zeal and enterprise, unaided by the patronage of government, the public were indebted for the foundation of this school, seems to have fully realized some of his fondest hopes as an instructor. He had the good fortune to witness, in the career of his pupils, their triumphs in the forum, their elevations to places of honor and trust in the State, and their distinction at the bar and on the bench. If, in view of their achievements in life he had the gratification of exclaiming, "this is in part my work," it is certain that none of his class more gratefully acknowledges the truth of the exclamation, as none bears the honors he has attained with greater humility, than the subject of this memoir. At this school, associating with young gentlemen of spirit, talents and fortune, many of whom were reared in that clime

"Where the sun loves to pause
With so fond a delay,"

and friendship glows with so much ardor, he contracted a relish for convivial enjoyments which he still in some degree retains, but seldom indulges.

His license to practice law, obtained at the close of the term for which he entered the school, is dated April 5th, 1828. Admitted to the bar, the aspirant for professional honors has taken his first step in his ascent of "the step where Fame's proud temple shines afar," but without a client he can advance no farther. If, as was the case of our young attorney, he is also without a library, and lacks not only the means of procuring books for his shelves, but bread for his breakfast, his condition is indeed "gloomy," but we admit it is by no means "peculiar." The honorable aspirations which carry him unassisted into the ranks of a learned profession, usually support him whilst waiting for his first brief. The perplexity, however, which embarrassed our young aspirant at this time, was the choice of a location. His native county had its attractions, whilst the Great West seemed the proper field for successful enterprise. The distinguished eminence attained by the many individuals celebrated in the annals of the profession, who friendless, pennyless, and briefless, sought fortune and fame in this spacious and gorgeous arena, to his sanguine spirit seemed the presage of his own success. He yielded to a laudable ambition, determining to venture his chance where patient labor is sure of its reward, and splendid honors await alike the child of genius and modest merit, regardless of the fortunate concurrence of wealth and station.

He came to Ohio in the fall of 1829. During the probationary year which the applicant for admission to the bar in Ohio must pass, "in conformity with the statute in such case made and provided," he visited several towns in the southern and eastern parts of the State, exercising his pen, now and then, in contributing an article, literary or political, for some county papers where he happened for a time to sojourn. These introduced him to the acquaintance of many influential citizens, whose valuable friendship he still retains. A series of these essays, of a political character, published in "*The Ohio Repository*," attracted much attention, and were copied into most of the leading papers of the State. These articles were noted alike for elegant diction, lucid argument, and sound republican principles,—a combination of qualities not usual in communications for the weekly press.

Several months of this period he resided at Marietta, occasionally writing for "*The Pilot*," then conducted by the talented and enterprising John Brough, Esq. In the enjoyments of the charming society which has always characterized this beautiful town and its vicinity, "a spark from the disturbing eyes" of a lovely "young Peri of the West" set his heart once more in a flame, and this time nearly drove our sensitive Corydon into matrimony. But "there is a divinity that shapes our ends," and the catastrophe was once more mysteriously delayed, and his state of "*single* blessedness" a few brief years prolonged.

At the expiration of his term of probation, in June, 1831, after a chase through several counties, he overtook the Supreme Court in Highland county, and obtained his license to practice law in Ohio. Visiting some relatives in Stark county, shortly thereafter, he determined to remain among them and await the action of the Legislature in relation to the erection of the county of Carroll. The bill for that

purpose, then pending, became a law, and took effect January 1st, 1833, changing the name of the village of Centreville to Carrollton, and making it the county seat. Here he located, and entered at once on the practice of his profession. Among the members of the bar whom he found in the village, awaiting the arrival of clients and a court, we may name the Hon. William Johnston, now in full practice in Cincinnati, and late Judge of the Superior Court of that city. The distinguished career of this talented lawyer has rather exceeded the expectations awakened by the "first impressions" of our young aspirant Early seeking his acquaintance, curious to know the quality of his competitor, ambitious, we may suppose, to find in him "a foeman worthy of his steel," our adventurer called upon him at his office. Mr. Johnston was not in. His visitor glanced about him for the library. A few volumes in "law-calf," apparently "kept for show," garnished the shelves of his book-case, whilst a well-thumbed volume of Shakspeare lay open on the table. Disappointed, he withdrew, not without slight inward exultation, thinking he would find more literature than law in this gentleman. His subsequent acquaintance with Mr. Johnston, which quickly ripened into the warmest friendship, convinced him that a taste for literature may be combined with sound reasoning faculties and a thorough knowledge of the law.

In 1834, in connection with Judge Johnston, he established the *Carroll Free Press.* This paper he conducted, as editor, for nine years. Although the time devoted to his paper was never permitted to interrupt his duties as an attorney, still he gave it such attention as rendered it one of the most efficient of the Whig presses. The easy style, biting sarcasm, bold denunciation, and daring invective which marked many of his leading articles, showed that he possessed those qualities which would in another field have eminently distinguished him as a partizan editor. Certain of his political opponents could bear testimony to the severity of his editorial lash; and yet, by their "curses, not loud but deep," show that time, after all the only emollient "for an inward bruise," is a very slow cure.

During his connection with the *Free Press*, Carroll county changed its political complexion, and for the first time elected a Whig Representative. For a period of nine years, until 1850, this county continued to be represented by a whig in the General Assembly of the State. Before this change was effected, Mr. Pearce was defeated as the whig candidate for Prosecuting Attorney, and likewise in 1836, in 1839, and again in 1841, for Representative: events indicating what his after-life but too fully exemplified—that he could serve others much more efficiently than he could serve himself.

In 1837 he married Elizabeth Patton. Unaided by wealth or family influence in his outset, he sought for neither in his marriage. Years of uninterrupted domestic happiness, and a numerous family of interesting children, evince the wisdom of his choice.

At the bar he soon had his full share of business, and distinguished himself as a sound lawyer, a safe and satisfactory counsel, an accurate pleader, a subtle reasoner, and a sharp debater. As an advocate, he lacked a good voice, and always argued a cause with reluctance, never with great force, but at all times with clearness, point, and method.

The romance that at an early day attached to the bar every where, and especially in the West, no longer exists. When some of our districts, and even counties, extended from the Ohio river to the lake shore, and lawyers traveled in troops, seldom singly or in pairs, on horseback, all round the circuit, sharpening their wit by pure air, manly exercise, and *moderate* potations of whisky and water, scarcely more adventure is recorded of Amadis de Gaul and Don Quixote, than might be found in a well-written history of those "knights of the green satchel." Now, the well-cushioned close-covered buggy, or carriage and pair, has lulled our once booted and spurred, vivacious and well-mounted profession, into a body of "carpet knights," who are out of their element when out of doors; whose principal exercise consists in whittling sticks, and chopping logic; who never "pitch the bar" unless it is a "bar to the action," and are never found mounted, except on the hobby-horse of politics. The effeminate habits of these degenerate days affected a frame feeble by nature, and prevented our young attorney from extending his practice into all the counties of his circuit. In the character of the causes that generally filled the docket of his own county, no great intellectual or legal talents were called into requisition. Yet care in pleading, and skill in managing a cause, were always necessary when Johnston, Jarvis, and Griswold, Stokely, Stanton, and Starkweather were of the bar. With a full share of the briefs, his share of the fees never made him rich; with a due proportion of the verdicts, his eloquence never made him celebrated; with all his success as a collector, his promptitude in "paying over" never permitted his becoming a speculator. He preserved his integrity, but saved no money.

In February, 1844, he was elected by the General Assembly President Judge of the Court of Common Pleas of the Fifth Circuit, composed of the counties of Tuscarawas, Stark, Columbiana, and Carroll. At the expiration of the term, in February, 1851, he was re-elected. His second term expired on the second Monday of February, 1852, being cut short by the adoption of the New Constitution.

The extraordinary incidents that illustrate the life of a Judge are few. Calling the cases on the calendar, charging the Grand Jury, setting a cause for hearing, and sitting quietly until it is heard, with a few words to the jury at the close of the trial, and you have about all that is visible of his judicial acts. Seldom any thing of sufficient general interest occurs on the bench to be deemed worthy of a newspaper notice. In this particular, the office of Mayor, or city Alderman, is the temple of Fame itself, compared with the dull, monotonous Court of Common Pleas. The only knowledge you can have of the Judge's abilities, the qualifications he possesses for adorning his high station, you must gather from the members of the bar, the decisions of the Supreme Court, and the Record.

The character of the business of the Fifth Circuit renders the duties of the President Judge as complicate, and their correct discharge as difficult, and therefore as honorable, as those of any other circuit in the State. The causes that fill the dockets involve every variety of important interests; valuable property, life, liberty and reputation. These causes too, during the judicial term of Judge Pearce, were managed by a bar eminent for talents in every branch of the profession.

As Special Pleaders, as Advocates, as Solicitors, it is sufficient to name Messrs. Griswold, Bingham, Belden, Stanton, Starkweather, Eckley, Mason, and Carter, whose names and talents are well known to the profession all over the State.

The Bench of the Supreme Court, during this period, was occupied by the venerable Peter Hitchcock, and a part of the time by Judges Lane, Reed, Birchard, Avery, Caldwell, and Spaulding.

To have served as President Judge eight years, and retain the respect, nay gather golden opinions of the Bar before him and the Court above him, is no mean honor. This we believe Judge Pearce has done. The personal friends he numbers among his brethren of the bar, and the judgments affirmed in the Supreme Court, are the best evidence of the ability with which he has discharged his manifold and arduous duties.

On the bench he presided with dignity, utterly devoid of ostentation or display. Judicial robes, the gowns and wigs of the old Barristers, and the escort of tipstaffs, would ill comport with his sense of judicial dignity; and if sanctioned by custom, would doubtless be discarded by Judge Pearce as solemn foppery. To what is conventional in society he conforms, but demands nor yields anything more to official station. "The rank" with him "is but the guinea's stamp, the man's the man for a' that." An incident may illustrate this, and at the same time exhibit the kindly disposition with which he is wont to indulge the tastes and prejudices of the unpretending around him.

At a term of the Court in New Philadelphia, he was one day waited on at his lodgings by a plain old German of respectable appearance, who stated that he was a Prussian by birth, and a Quaker in religion. That he had been taught to take off his hat for no man. That he had entered the Court room that day, and a constable had ordered him to uncover. Not being able to obey with a clear conscience, he was compelled to leave the room. He desired therefore that the Judge would grant him the privilege of appearing in Court with his hat on. "Well, sir," said the Judge, "it is generally considered polite for gentlemen to take off their hats in most public assemblies, in private houses, in the company of ladies, and on various other occasions; still, I have no idea that bare heads are essential to the free, full, and speedy administration of justice. I think, sir, we can indulge you with the privilege of wearing your hat in our Court." With many thanks the German begged him to give him written authority to that effect. Thereupon the Judge issued "letters patent" under his sign manual, to remain in full force during his official term, authorizing the bearer, by name, to appear in any Court of Common Pleas of the Fifth Circuit, with or without a hat as he might deem proper, polite or expedient. The gratified Prussian took his "letters" with many assurances of obligation, and apparently highly pleased with himself and the tolerating spirit of our system of jurisprudence.

On another occasion a negro had been convicted of horse-stealing, and was in Court to hear the sentence of the law. When addressed by the Judge, he rose and asked leave to say a word in his own defence. He was informed that he could say nothing at that time that would avail him; that he had been heard by able counsel, appointed by the

Court, and a jury had found him guilty. Yet, as he belonged to an unfortunate race, against whom great prejudice exists, and as the culprit might feel this, but too painfully, to relieve his mind he was permitted to state what he had to say. Thereupon "Othello," with many thanks, proceeded to address the "grave and reverend seignors," and "a round unvarnished tale" delivered of his whole course in this affair. He averred he was an innocent and injured man, the victim of circumstances. He stated that traveling on foot one very hot day, he became tired, and lying down in the shade of a tree by the road side to rest, soon fell asleep. When he awoke, a horse was near him, hitched to the fence, saddled and bridled for the road. He looked about for the owner, "but der was nobody dah but de hoss." Looking upon it as providential succor, he mounted, intending merely to rest himself on horseback, ride a few miles and turn the horse loose. He had not gone far, however, until he was overtaken by a person who claimed the horse as his own, and took both horse and rider into custody. "O Lo'd! Your honor," said Othello, "I knowed I was done gone—but I didn't mean *to steal* the horse. Fore God sake, as a gentleman, I'd *sco'n* to steal." The Judge remarked that it was very unlucky for him that he had not found the owner before he found the horse. But that our laws do not allow any person, black or white, to *borrow* his neighbor's property *without leave*. "You may have been ignorant of this," continued the Judge, "but unluckily for you again, ignorance of the individual does not prevent the operation of the law. The Court, however, touched with your unfortunate condition, have agreed to limit your imprisonment to the lowest term fixed by the statute." The sentence being pronounced, Othello sat down with a great many "thank you sahs," thinking doubtless his eloquent appeal had secured for him a commutation of at least a dozen years.

As a Judge he displayed a practical, discriminating, logical mind, lively sensibilities, and clear perceptions. His apprehension was rapid to impulsiveness; yet his judgment was as unerring as if the result of great deliberation. The operations of his mind, quick, sometimes impatient, he was somewhat prone to *anticipate*. But with a full knowledge of the premises, he arrived at correct conclusions with a rapidity and certainty evincing intellectual powers of the highest order.

In the administering the law, as he found it to exist, he was stringent; in the exercise of his discretionary powers he was lenient and merciful. Sensitive himself, he was always careful of the feelings of others; impulsive, he ever silenced insolence with severity. Warm in his attachments, his friendship never perverted his judgments. Strong in his dislikes, his aversion never injured the cause of an enemy. No man's friendship availed him with the court; no man's displeasure prejudiced his cause. This, we believe, every member of the bar within the fifth circuit knows full well.

In a disagreement between counsel and the court, a cumbrous argument was usually cut short by a few pertinent questions, by which the *gist* of the matter was reached in the most direct manner. By this Socratic method, a discomfited attorney, although convinced, was generally displeased; whilst the fastidious bystanders probably looked

upon it as a personal wrangle, detracting from the dignity of the court.

To the young members of the bar he was always indulgent, listening with patience whilst a tyro stammered through his first argument of a demurrer. To aid them in a correct understanding of the law of the case, he likewise resorted to interrogatories. As these too often only exposed their ignorance of the law, they tended rather to embarrass than assist. Thus, not unfrequently what was designed for "material aid" was set down as a want of sympathy, and an act originating in real kindness of feeling operated as a stroke of judicial severity. Many a valuable hint of legal information was lost on a novitiate, because not accompanied with a little of the unction of flattery, so congenial to the feelings of most men, but never on any occasion employed by the Judge.

In society he is a little austere, a little difficult of approach by strangers; but the approach made, he is social, kind and communicative. He is courteous, upright, and frank to a fault; without dissimulation and without flattery. He is generous to all around him, and when charity is needed he gives at once, and gives freely. He is public-spirited, ever ready to contribute his share for public improvements.

In his family relations he is most kind and most indulgent, both as a husband and father.

In person he is tall, slender and erect, his appearance indicating a frame once elastic, enfeebled by disease. His port and bearing indicate the gentleman,—a man of intellect, firmness of purpose and independence of character.

Everywhere, and at all times, his love of truth has been spotless, his honesty of purpose and of action far above suspicion. Whatever position in life he has occupied, he has acted well his part, and fulfilled the duties of a good citizen. Possessing in an eminent degree the confidence of the people, he has ever been esteemed by them a sound lawyer, an upright judge, and an honest man.

HON. GEORGE B. WAY,

OF OHIO.

The subject of this sketch, on his mother's side, descended from the family of John Wilkes, the famous English statesman. Anne Wilkes, a sister of John, married Joseph Brevitt. The issue of that union was three sons, John, Joseph, and James. John, the eldest, commenced the study of law in London. He forsook his studies to come to America, where he arrived three years before the close of the Revolutionary War. He entered our army as a recruit, at the age of twenty, and retired from service at the close of the war with the commission of captain by brevet. Three months afterwards he married Mary Swope, daughter of Rev. Benedict Swope, Pastor of the German Lutheran

Church at Baltimore. Mary Matilda Brevitt, second daughter of John and Mary Brevitt, was born in Baltimore in 1790. She was married to Andrew Way in 1809. He was at the time printer to Congress in Washington city.

George B. Way, the subject of this memoir, was born at Baltimore, on the 4th day of May, 1811. The early years of his life were spent in Washington city. No expense was spared in his education. When in his ninth year, he was sent to a select school, twelve miles distant from Washington, where he remained two years. He then entered the Jesuit's Academy at Washington, which, after two years of tuition, he left to go to St. Joseph's College, Beardstown, Kentucky. At the age of sixteen, he returned to Washington. After a visit of a few weeks, he was sent to Yale College, where he was placed under the guardianship of Professor Chauncey Goodrich and Hon. David Daggett.

While at Yale, he boarded at one of the houses specially provided for the students in commons. The poor fare at this establishment soon became a subject of general complaint among the students, who, after waiting a suitable time for it to be improved, enumerated their grievances in a round robin, addressed to the trustees and faculty, in which they threatened rebellion and withdrawal from the college, unless a change took place. This instrument was signed by a majority of all the students in college. Its defiant tone was deemed by the faculty too gross a breach of college discipline to go unpunished. They sought in vain to ascertain the names of the ringleaders in the outbreak. Six students, who were supposed to be more active than others, were expelled. This act of random justice so incensed the other students that they presented to the faculty, as the only alternative of their continuance in college, the restoration of the expelled members. The faculty declined to comply with it, and one hundred and forty of the students, Mr. Way among the number, withdrew from the college and took quarters in the city. It was now the turn of the faculty to present alternatives. Letters were written to the parents of the rebellious students, pleading for their return, but without effect. After spending a few weeks in New Haven, Mr. Way returned to Washington, and from thence, soon afterwards, he went to Miami University, at Oxford, in the State of Ohio. Here, after a year of close application, he completed his collegiate course of study, and left the University without waiting for its honors.

During the period that young Way had thus spent in schools and colleges, he made a good improvement of his time. He became very familiar with the language and sentiments of the Latin and Greek classics, and excelled in belles lettres and general literature. He also made himself master of a pure English style as a writer, and as a ready and able debater stood foremost among his fellow-students. Some of his efforts, while in college, are remembered as fine specimens of eloquence and argument.

Having made choice of the law as a profession, Mr. Way went immediately from Oxford to Steubenville, where he became a student at law in the office of Hon. John C. Wright, then and now one of the most distinguished lawyers in Ohio. During the two years of his

residence there he applied himself closely to the study of his profession. The knowledge of elementary principles which he obtained while under the instruction of Judge Wright, laid the foundation for his success as a ready and accurate lawyer. His course of study embraced all, or nearly all, the elementary writers, commencing with Coke and Bacon. He reserved for his first years of practice the task of familiarizing himself with decisions and cases.

Mr. Way was admitted to an examination at the Supreme Court for Madison County, Ohio, in the year 1832, a few months before he had attained the age of twenty-one. He immediately opened an office in the delightful village of Urbana, the county seat of Champaign county, and then the residence of his mother, who, on the death of his father, had moved there with his brother while he was a student. He entered upon the practice of his profession with great zeal, but failed to realize from it those substantial proofs of success which an ardent imagination had led him to expect. While the highest praise was awarded to his powers as an advocate, and his ability as a lawyer, "money came slowly in." To one who was constitutionally indifferent to speedy acquisition, this was a matter of small moment, and Mr. Way found in the charms of social intercourse an adequate compensation for tardy accumulations. His fine conversational powers, gentlemanly deportment, and ready humor, made him a great favorite with the young people of Urbana. His associations at this time, while of a pleasant, were not of a profitable character. They stole upon the time which, had he devoted to his profession, would sooner have secured him business and placed him beyond the reach of discouragement. Becoming aware of this himself, he renewed his application to his profession, and soon succeeded in obtaining a growing and profitable practice. Of his efforts at the bar, at this period, but one opinion exists among those who witnessed them. They were able and brilliant, remarkable for the clearness of their logic, a faultless elocution, and a finished oratory.

Early in the spring of 1834, Mr. Way married Miss Jane McCord, the daughter of a citizen of Urbana. Marriage, with its pleasant associations, was not unaccompanied by corresponding cares. The theatre in which Mr. Way moved was ill y suited to his wishes, and he soon began to feel the necessity of a wider field of usefulness, and a more productive practice. The year 1835 marked the commencement of a period in Western history which will not soon be forgotten. The immense amount of currency, with which the country had been flooded, had found its way into the hands of speculators and adventurers, who were seeking opportunities in the great West for its profitable investment. That was not the day of railroads or physical improvement. Men had not ceased to think that the safest and most profitable investment for money was real estate. The southern shore of Lake Erie had just began to attract the attention of speculators. Every little port became speedily a field of prolific operations. Thousands of the young and enterprising population of the Eastern States raked together their slender means, and hastened to the West in search of speedy fortune.

Under the influence of these causes, a town had been commenced on the Maumee river, where Toledo now stands, which, it was supposed, in a

few years, would possess all the advantages of an immense commercial metropolis. Attracted more by the facilities which it promised for an extensive practice in his profession, than by any desire to engage in real estate speculation, after four years of toil and discouragement, Mr. Way removed, with his family, to Toledo, in September, 1835. At the time of his arrival, the town was crowded with speculators. The contest between Ohio and Michigan, concerning the boundary between the two States, had been decided. Toledo was within the territory given to Ohio. The town site had passed into the hands of adventurers, who had laid it out into city lots, which they were selling at enormous rates. The town was one continued scene of excitement. The public-houses were filled with fortune hunters.

At the solicitation of the principal proprietors of the place, Mr. Way took charge of a printing-press, which they had procured, and established the *Toledo Blade*. The first number of this paper was issued in the fall of 1835. The leading article in the first number, from the pen of Mr. Way, assigning the reasons for the name which he had bestowed upon the paper, was a fine specimen of composition; and could it have been found, would have filled a space in this memoir. Simultaneously with the assumption of editorial duties, Mr. Way resumed the practice of his profession, which soon introduced him into an extensive business. During the first three years of the existence of the *Blade*, Toledo was the abode of several gentlemen of fine literary attainments, who having made extensive purchases of real estate, continued to reside there, with the hope of disposing of the same at advanced prices. Among the number was the Hon. Joseph R. Williams, now of Michigan, a writer of great strength and sarcasm, and Pierre M. Irving, Esq., nephew of Washington Irving, and, like his distinguished relative, a delightful pastime writer. The *Blade*, from time to time, received the contributions of these gentlemen. It was for a long time conducted with eminent ability, and by the character which its able editorials and communications obtained for it, both at home and abroad, it increased the notoriety of Toledo, and gained for it the favorable consideration of men of influence and station. In its sharp contentions with Maumee City and Perrysburg, which were rival towns, Toledo experienced the benefit of this influence, and owed to it, more than to any other one cause, her ultimate triumph.

Soon after his removal to Toledo, Mr. Way formed a partnership in the law business with Richard Cook, Esq., a young lawyer from Connecticut. Cook was a man of fine legal attainments. As a mere lawyer he had no equal in the Maumee Valley. This connection was continued until the death of Cook, in 1839. The business of the firm was extensive. The reputation which Mr. Way speedily acquired as a brilliant and efficient advocate secured to him a large criminal business, while the reputation of Cook as a lawyer secured a fine Chancery and real estate practice. Mr. Way's efforts at the bar at this time were numerous, and won the admiration of all his contemporaries. He was by common consent deemed the best advocate in the Valley—no mean praise for a young man of twenty-four, who had for his competitors many men of long tried and distinguished ability.

After the death of Cook, Way entered into partnership with Daniel

McBain, Esq., a young lawyer of merit, with whom he continued in business until he left Toledo in 1846.

In 1838, Mr. Way was among the prominent persons named by the Whigs to represent the North-Western district in the Ohio legislature. At the Convention local considerations alone prevented him from obtaining the nomination; his greatest admirers voting against him because of his supposed prepossessions in favor of Toledo. No ways discouraged by this disappointment, he enlisted for the campaign, and both as a writer and speaker, performed excellent service for the fortunate nominee. In the following year, his name was again brought prominently before the nominating Convention, and he was again sacrificed to the local prejudice of his friends.

In 1840, Mr. Way's services in behalf of Gen. Harrison were laborious and efficient. At almost every Whig gathering in North-Western Ohio, his voice was heard, infusing into the crowds of eager listeners, a portion of the enthusiasm which he felt. His pen was also busy. He was the author of some of the best songs of the campaign—songs, which were set to music during the year, and published by the New-York composers. These effusions were thrown off by him, as a species of relaxation, while in attendance upon Court, or in moments of hilarity at political gatherings, without study or consideration. They furnish remarkable evidence of his ready and brilliant genius. At the Convention of that year he received the unanimous nomination of the Whigs, as a candidate for the Legislature. During the fall campaign, he met in debate several of the leading champions of Democracy, with whom he contested inch by inch for the supremacy of Whig principles. He was elected to the Legislature, and entered that body during the stormy session of 1840–41. Soon afterwards he was attacked with serious illness, which incapacitated him for attendance upon the remainder of the session. He had, however, been long enough a member to satisfy, as well those whom he met in the House of Representatives, as those who sent him there, that his claims to influence and merit were second to those of no other member on that floor. In one or two speeches on subjects of a local character he commanded at once the admiration and respect of his fellow members.

After his return to Toledo he resumed the practice of law, which he followed successfully until the summer of 1846. During this period he was elected in successive years Mayor of the city of Toledo, and Alderman.

Partly with a view to change the character of his practice, and partly to gratify his taste for retirement, Mr. Way dissolved his business connection in Toledo in the summer of 1846, and removed to the beautiful village of Defiance, sixty miles above Toledo. There, he entered into partnership with Wm. Sheffield, Esq., a lawyer of considerable repute, and became at once introduced into a large and successful practice, which was scattered through four or five of the backwoods counties of North-Western Ohio. His fine powers as an advocate soon placed him at the head of his profession. At the session of the Legislature of 1847–8 a new judicial circuit was created in this portion of Ohio, comprising the counties of Defiance, Putnam, Van Wert, Paulding, Henry, Williams and Fulton. Mr. Way was appointed President Judge, and

entered immediately upon the discharge of his official duties. These, always laborious, and often very complicated, embracing questions of real estate, and criminal law, were discharged with ability, and greatly to the satisfaction of the members of the profession who practiced on the new circuit. Judge Way held this office until it was vacated by the operation of the new Constitution of Ohio, which was adopted in the spring of 1851. By this instrument the office of Judge, which until then had been within the gift of the Legislature, was made elective by the people. It became necessary under this new administration of affairs to nominate five candidates for the Supreme bench, to be supported at the fall election of 1851. Mr. Way received the unanimous nomination, as one of the candidates, at the State Whig Convention assembled at Columbus, July 3, 1851. It is no demerit of his, that with the entire Whig State ticket he was defeated. Since that time he has returned to the practice of his profession on the Defiance circuit; but intends during the approaching season to return to Toledo, and open an office at his old place of residence.

He is just entering upon the age of ripened manhood. With a mind well disciplined in the letter and practice of his profession, a pleasing exterior, popular manners, and a commanding eloquence, it is but reasonable to suppose, that the best years of his life, as well as of his fame, are yet in the undeveloped future. To them, with the best wishes for his prosperity, and his attainment of all the legitimate ends of honorable ambition, does the writer direct the attention of the readers of this imperfect tribute of friendship and regard.

HON. CONSTANTINE W. BUCKLEY,

OF TEXAS.

Constantine W. Buckley, Judge of the Seventh Judicial District of the State of Texas, was born on the 22d day of January, A. D., 1815, at Mount Airy, in the State of North Carolina. When about the age of five years he was sent to school. When six years old his father died, leaving him to the entire care and management of his mother, who continued him at school, where he made such rapid advances in learning, that its patrons and the teacher pointed to him as one of its most promising scholars. His mother married within a year from the decease of his father, very much against her son's wishes. This marriage, doubtless, had a great influence upon his life, as he never afterwards took any pleasure in the home of his birth, and resorted to every means to escape from it—although his stepfather was always kind and indulgent, and kept him continually at school.

Having progressed as far as the teachers of his neighborhood could instruct him, he was sent to an Academy at Germantown, Stokes county, to be prepared for college. Here he remained eighteen months, during which time he had made all the necessary progress in the various branches to entitle him to admission into college, not then being

fourteen years of age. His disposition and intelligence, added to his studious habits, made him a decided favorite with all his teachers; one of whom proposed to send him to college at his own charge, if his family would not do so, and was exceedingly solicitous on the subject. When this kind teacher afterwards learned what profession his favorite pupil had adopted, he was grieved not to have been permitted to carry out his design. This gentleman is now a popular and successful physician.

Being fully prepared for college he returned home, and having always doubted the capability of his stepfather to manage his estate properly, and fearing that he would ultimately be thrown upon his own resources, became desirous of embarking in some pursuit that would enable him to live and prosper by his own exertions. (We would here state that his father left him an ample estate to give him a finished education, with enough to commence active life upon besides.)

After repeated importunities his mother consented to let him visit Georgia, where a half-brother of his stepfather, who was very kind to him, resided, upon a promise that he would return in six weeks. He accordingly went to Georgia in the winter of 1828--9, and refused to return with his stepfather, who made an effort to carry him back to North Carolina, but without success. Being thus left among strangers, without a friend save one, he went to school a short time, and then procured a situation in a mercantile house for his board and clothing. This situation he retained for about five years, during which time he was a constant reader of the politics of the day, history, &c.; and, as all Georgia youths of that period, became well versed in the history of our Government, its powers, duties, &c. When about nineteen years of age he commenced the mercantile business on his own account, and continued in it until the spring of 1837—a season so disastrous to all who were engaged in trade, when, as all others, he failed. Mr. Buckley honestly surrendered every dollar of assets to his partner for the purpose of liquidating the debts of the firm.

During the whole period of his mercantile life his intimate friends endeavored to persuade him that he had mistaken his vocation, and urged upon him the study of the law, insisting upon his adaptation to that profession. He resisted their importunities, doubting his own abilities. After he saw that failure was inevitable, he read Blackstone's Commentaries, but with no idea of ever becoming a lawyer. Ultimately the crash came, and being proud in feeling, and unwilling to remain in a section of country where circumstances had changed his position for usefulness and enterprise, he concluded to emigrate to Texas, then presenting a fine field to ambition, courage and talent. He arrived at Houston, where he has resided ever since, on the 1st of June, 1838, penniless and friendless, but very soon obtained a situation in the State Department, (this then being the seat of Government) as a clerk. Here he resolved to test his capacity to become a successful lawyer. He served faithfully in his place, and at the same time read two hundred pages of law daily for some fifteen months. His reading was under the direction of Mr. Chief Justice Birdsall, formerly a Judge of the Circuit Court of New York, a ripe scholar, learned lawyer, and an accomplished gentleman.

About the first of 1839 he was admitted to the bar upon the recommendation of Judge Watrous, U. S. District Judge for Texas, the late Hon. Wm. H. Jack, and Joseph A. Swett, Esq., three of the most distinguished lawyers of Texas, who were appointed a committee for the purpose. Notwithstanding his admission to the bar he continued to hold his post in the State Department, and to read his accustomed number of pages of law until September, 1839, when the seat of Government was removed to the city of Austin. When this event took place he opened an office at Houston and commenced the practice, and brought at the first term of the Court more suits than any other member of the bar, although the bar of Houston then numbered many of the most distinguished lawyers of Texas. From this period, practice poured in upon him, and his success increased with his rapidly increasing reputation.

In February, 1847, he was without solicitation appointed Judge of the Seventh Judicial District, and unanimously confirmed by the Senate, over which he has presided ever since.

Of the mental capacity and legal acumen of Judge Buckley it would be almost impossible to speak in language too strong. His habits of study are fit models for the most ambitious aspirant for legal honors, and he finds more real fascination in Blackstone and Bacon than the most enthusiastic reader of poetry can do in the pages of Milton and Byron. At this day he reads more law than any lawyer in the State. When at the bar his cases were studied with intense care, and every point so fortified that he never despaired of success. Great and continued as was his good fortune, and many and brilliant the victories he won, still success to him was never a matter of indifference, but even up to the very day of his elevation to the bench, he gloried as much in carrying off the palm on the legal field as if it was his maiden effort, and destined to stamp his future prospects. In the beginning of his professional career, in fact until many years thereafter, his diffidence as a speaker was very great. By practice, perseverance, and as a result of what an iron will can achieve, he has surmounted that obstacle, and is now master of a fine, bold and easy elocution, persuasive to juries, and instructive to the Court.

In the course of Judge Buckley's career he has presided over two judicial districts in addition to the one for which he was commissioned. Wherever he has been, his administration has proved honorable to himself, beneficial to the country, and vindicatory of the majesty of the law. At the end of every circuit he bears home with him "those golden opinions," which the bar, the people, and the press united, pay as a just tribute to his independence, intelligence, discrimination, impartiality and decision. His charges to juries are clear and intelligible. His opinions bear the impress of much thought, deep research, and an intimate knowledge of the law and facts of the case presented for his judgment. There is no man in the State possessed of a more critical and thorough knowledge of the statutes than Judge Buckley. So great is the estimate placed by friends upon his capacities, that they warmly urged him to suffer his name to be presented at the election in August, 1851, to the consideration of the public as a candidate for the Supreme

Court Bench. He ranks as one of the most popular, able, and distinguished members of the Texas Judiciary.

In September, 1840, Judge Buckley married Miss Lurana Jane Phillips, daughter of the late Col. Zachariah Phillips, of Coweta county Georgia, a lady of fine personal appearance, superior intellect, and most exemplary piety. Mrs. Buckley died near Houston on the 16th of September, 1851, leaving three children. The community in which she lived, the numerous friends she had endeared to her by her many amiable qualities, and the church of which she was a most worthy and active member, joined their tears with those of the heart-stricken husband, and bereaved orphans, over her grave.

In conclusion it gives us great pleasure in being able to bear testimony to the excellence of Judge Buckley's private character. He most deservedly sustains the reputation of a moral man, and, by his own example, seeks to inculcate in the minds of all his own high respect for truth, honesty, and good behavior. In fact his morality almost partakes of Christianity, for which, and its glorious precepts, he entertains the most profound respect, and for the advancement of whose salutary influence he has ever been a liberal contributor.

As a father and husband he is most affectionate and devoted. His family constitute an object most dear to his heart; and a desire to advance the happiness and comfort of his children and wife is a paramount feeling. When not forced abroad in the discharge of public duties, his own fireside forms the point of attraction, where he can always be found. With a warm heart and generous impulses, he is the centre of a circle of devoted friends. His social qualities are very great, and his hospitality unbounded. Possessed of fine colloquial powers, he never fails to make himself both instructive and interesting as a companion; and always dignified in deportment, yet he is easy of access, and especially affable to the young.

HON. GREEN ADAMS,

OF BARBOURVILLE, KENTUCKY.

Randolph Adams, the father of the Hon. Green Adams, emigrated from Virginia, and settled himself on the banks of Cumberland River, near the town of Barbourville, in Knox county, at an early period of the history of Kentucky, where the subject of this sketch was born, the 20th of August, 1812.

Green Adams is the youngest of five brothers, viz.: Richardson, Thomas Jefferson, Randolph, George Madison, and Green, all of whom have ever been distinguished for their sterling sense, business habits, and great personal popularity.

Mr. Adams was not educated for the bar, and was in early life closely engaged in other pursuits, which prevented his acquisition of that classical lore which adds so much lustre to the legal profession.

Indeed, until he was about twenty-two years of age, neither he, nor his friends, dreamed of any other destiny for him than that of a farmer.

Possessing, however, an unusually inquiring mind, and being constantly thrown into mental collision, in the social circle, with his late brother, Thomas J. Adams, and his brother-in-law, the Hon. Frank Ballinger, both young lawyers at the time, of uncommon merit and attainments, they could but discern the evidences, so often given, of the massive mind slumbering in the brain of the modest, uncultivated youth, who seemed by intuition almost invariably to arrive at correct conclusions upon all subjects presented to him.

Consequently, they persuaded him to read law, or adopt some profession which would enable him to realize the benefits, and the world to appreciate the high intellectual endowments with which Providence had so peculiarly blessed him.

Feeling great reluctance, however, to the adoption of a profession, to the mastery of which he felt himself so inadequate, on account of his limited education, they would most probably have failed in their efforts had it not been for the timely intervention of his brother, Richardson Adams, who from his greater age, keen powers of discrimination, and undoubted candor, exercised a controlling influence over the otherwise doubtful determination of his brother, and they had the gratification of seeing the subject of this sketch immediately initiated as a student in the law office of Judge Ballinger, in the 23d year of his age.

The maturity of his years, the great anxiety he felt to be engaged in the active business pursuits of life, together with his limited pecuniary means, induced him to leave his preceptor's office within less than six weeks from the time he entered it, and repair to Transylvania University, for the purpose of attending the law lectures of that celebrated institution of learning.

After a few months' hard study and intense application, and close attention to the lectures of the great masters of jurisprudence in Transylvania, he applied to Judges Hickey and ———, and procured a license to practice as a counsellor and attorney at law in all the courts of Kentucky, and immediately returned to his native town, and settled himself permanently, with the view of perfecting his studies, and attending to such business as might casually fall in his way.

His high moral character, business habits, and popular deportment, at once attracted public attention, and excited a generous emulation amongst his numerous friends, as to which should do most to advance his professional prosperity.

The consequence was, that during the first year of his practice he brought more suits, in law and equity, in his native county, than any other lawyer, and at once, by universal consent of the bar and community, took his position as one of the ablest and most successful lawyers at the bar. This honorable distinction he continued to occupy throughout the district in which he practiced, until in 1839 his friends prevailed upon him to become a candidate for the legislature.

He was elected by large majorities to the popular branch of the General Assembly of Kentucky, for two consecutive years, receiving in both races, over strong opposition, a greater vote than any candidate

had ever done in his native county, and discharged the arduous duties devolved upon him to the universal satisfaction of an enlightened constituency, and that too at one of the most critical periods in the legislative history of Kentucky.

Mr. Adams' fortune being still limited, and having just married, he declined being a candidate any longer, notwithstanding his great partiality for politics, and again resumed the practice of his profession, and devoted his undivided energies to its prosecution for several years.

Having, however, once launched his bark upon the exciting sea of politics, and possessing an unrivalled personal popularity throughout the Congressional District in which he lived, his political friends would not suffer him long to remain in the harbor of private life, enjoying a lucrative practice, and in the enjoyment of unalloyed domestic happiness, but dragged him from his seclusion, and almost literally compelled him to stand at the helm, as Presidential elector, in the memorable canvass for that high office waged between the friends of Mr. Clay and Mr. Polk, in 1844.

Reluctant, as Mr. Adams was, to assume the position at the onset, his unswerving devotion to the Whig party, strong aversion to the annexation of Texas to the United States, and his unbounded attachment to Mr. Clay, caused him to enter with a zeal and determination into the contest, alike worthy of himself, the great party, man, and interests to be affected by the result. He traversed the large District for which he was elector, made many speeches of great power and effect, won golden opinions from all parties, and thoroughly rooted and grounded his political tenets in the public mind wherever he went, and established as fully as man ever did, in the same length of time, his claims to the titles of *statesman* and *patriot*. The result was his return to the electoral college by a large majority, where he cast his vote for Henry Clay for President, and Theodore Frelinghuysen for Vice President of the United States.

The year following Mr. Adams' brilliant and successful canvass as elector, he became a candidate for Congress. Unfortunately, however, for his and his party's success, the Hon. George R. McKee, one of the most gifted orators, and one of the first wits and politicians of Kentucky, believing that as the whigs had a very large majority in the district, the democrats would have no candidate, became a candidate also in the same district with Mr. Adams. They canvassed the district thoroughly, and both enjoying great personal popularity, and each feeling confident of success, their friends became exceedingly active, and indeed unusually bitter. Such being the case, a short time before the election, the democracy presented a candidate in the person of the Hon. John P. Martin, who taking advantage of the unfortunate attitude of the whig candidates and their friends towards each other, and possessing much talent, and great electioneering skill, was elected by a small majority over Mr. Adams.

This was the first instance, and the last, in which a democrat was ever elected from the south-eastern portion of Kentucky to the Congress of the United States, and was consequent alone upon the fact, that two of the strongest whigs in the district were upon the track—men who had grown up together in the whig ranks, and possessing the

highest possible regard for each other, until they became so unexpectedly, and so untowardly involved in a controversy which temporarily prostrated them, and defeated their party. It is due, however, to both gentlemen to say, that the estrangement just referred to proved short-lived, and that they are now upon terms of great personal intimacy, and that no two men in the district regret more than they do, that at any period of their lives it should have been otherwise, or that they should at any time have been instrumental in humbling the proud flag of their party in the Gibraltar Whig District of Kentucky.

In 1847, by the almost unanimous voice of the Whigs of the Sixth Congressional District, assembled in convention, for the purpose of reconciling the divisions of the party, produced by the Democratic triumph in 1845, Mr. Adams was again presented as a candidate for Congress, and accepted the nomination.

Soon after which, Capt. Johnson Price, who had fought most gallantly in the Mexican war, and had so signally distinguished himself in the great battle of Buena Vista as to receive the special encomiums of his superior officers, in their official reports of the battle and its incidents, arrived at home, and possessing considerable professional reputation, great personal popularity, and being connected by the ties of blood with many of the most respectable, wealthy, and influential families in the district; and being a Whig, and having assurances that the Democracy would not vote for Mr. Adams, on account of his violent denunciations of the Mexican war; and being laudably ambitious of political preferment, was induced to become a candidate in opposition to Mr. Adams.

This canvass opened with much spirit on both sides. Capt. Price was the *beau ideal* of Kentucky chivalry, less than twenty-eight years of age, possessed of a tall, commanding person, great address, and wearing his laurels with so much grace and modesty, and availing himself of that universal outpouring of the public heart in sympathy with, and in honor of, those who had sustained the honor and advanced the glory of our arms upon the Rio Grande, he rendered himself, in the estimation of many, perfectly invincible in the district; and any one, possessed of less energy or consciousness of right than Mr. A., would have quailed before the prestige of the young hero's name.

But Mr. A. was occupying the post of duty assigned to him by his party, and he could with no greater honor have abandoned it than could Capt. Price his, when surrounded by superior numbers upon the field of his greatest glory—he had to but follow the example of the gallant Price—"to fight on—fight ever"—to promote the canvass to the end with unfaltering fidelity to his principles and his party. And such was the effect produced by Mr. A. in this way upon the public mind, that, after a canvass of a few weeks and the contest was over, his majority over Capt. Price was found to be a thousand votes.

Mr. A. took his seat in the councils of the nation at the commencement of the thirtieth Congress, and served the entire term. His course whilst in Congress, we believe, except in two instances, was never called in question by even his warmest political opponents. We have reference to his vote against striking from the Oregon Territorial Bill the Wilmot Proviso, and his vote in favor of the California Territorial

Bill, notwithstanding that it embraced the principles of the Proviso also.

These votes, at the time, subjected him to many and severe censures, particularly from his enemies in regard to the first vote, until Mr. Polk signed the bill with the proviso in it, for which Mr. Adams had voted, and thereby sanctified and made holy that which was, until then, abominable, unholy and unclean. And as Mr. Adams was known to have voted, in committee of the whole, uniformly to strike out of the California Bill the proviso, and to have voted for the bill containing it, from a high sense of duty, to give our people who had gone there, and who were without any government at all, the best in his power, no one, it is thought, upon mature reflection, has refused to approve even the votes now under consideration.

His friends all know that he has, at all times, been opposed to the engrafting the principles of the Wilmot Proviso upon any bill, where it has ever been attempted in Congress—not because he regards slavery as a blessing in the abstract, or desires its extension, but because he has never perceived any necessity for it, and has at all times regarded its presentation to Congress, and its agitation in that body, as being in direct conflict with the peace and harmony of the government, and calculated to produce unbounded evil and no earthly good. He does not believe that Congress has the moral right to regulate the institution of slavery in the territories belonging to the General Government. But regards its regulation as pertaining properly to the people occupying the territories over which Congress may be called upon to act. That is to say, Congress, so far as slavery in the territories is concerned, ought to display a masterly "inactivity," leaving its final settlement to the people of the territories when they shall come to frame a fundamental law for themselves, with the view of applying for admission into the Union as independent States.

After Mr. Adams' term in Congress expired, his friends were exceedingly anxious for him to become a candidate for re-election. He declined doing so, upon the ground that he was unwilling to engage in an exciting canvass again for the attainment of any political distinction, however great, and he did not suppose that he, or any other man, would be permitted to run without opposition.

After his retirement from Congress, in 1849, he almost exclusively devoted himself to reading, his farm, and family, and to the fullest possible extent enjoyed the sweets of rural and domestic life. Providence, however, in its inscrutable wisdom ordained that this almost paradisaical lot of Mr. Adams should be of short duration—death invaded this sanctuary of earthly felicity, and bereft it of its greatest ornaments, in the persons of Mrs. Adams and her only daughter. The blow fell with untempered severity upon the warm, susceptible, and devoted husband and father, and a settled, deep-seated melancholy, for months preyed upon his life.—So heavily, indeed, did his afflictions fall upon him, and so marked was the change they produced upon his mind and person, that his friends became exceedingly alarmed, in reference to the consequences likely to result to Mr. Adams himself.

During this melancholy epoch in his life, the New Constitution of

Kentucky was framed, and all officers of the State made elective by the people.

Owing to Mr. Adams' condition at the time, he took no part in the controversy, so warmly waged, between the friends of the old and new constitution, except to cast his vote against the adoption of the new, chiefly because by it the Judiciary, in his estimation, was made less independent than it should be. First, because the masses had the power to elect; and, secondly, because the Judges held their offices for a term of years and were re-eligible. This he regarded as placing the most reliable department of the government, as it had shown itself to be, in the past history of Kentucky, too much at the mercy of an irresponsible populace and designing demagogues, and opening the doors of temptation to partiality, and corruption of every description, too wide not to be entered, when occasion required, by those who desired a re-election.

The constitution, however, was adopted by an overwhelming majority, and notwithstanding Mr. Adams' vote against it, his friends presented his name, at the very first election under it, for the office of Circuit Judge, in the 12th Judicial District—a district which had adopted the new constitution by a majority of thousands.

Perhaps few higher evidences were ever given, of any man's popularity, and the confidence of the community, than were exhibited in Mr. Adams' triumphant election as Judge.

The public mind was greatly incensed against all who were opposed to the extension of popular rights and privileges, as secured by the new constitution; and hundreds, if not thousands, of voters in the district, had solemnly declared, during the pendency of the adoption or rejection of the new organic law by the people, that they would never vote for any man who cast his vote against it, for any office whatever. In addition to all this, the Hon. Edwin Trimble, who had only a few months before the election been appointed Judge, and who voted for the adoption of the new constitution, was his opponent—a man in whose integrity and gentlemanly bearing all had the most unbounded confidence—and yet, strange as it may seem, and really is, Mr. Adams beat him by a majority of more than one thousand votes.

As a Judge, Mr. Adams is firm, energetic, and dispatchful, and greatly distinguished at all times for his love of justice and strict impartiality—no man ever sat upon the bench, in whom the community had more unbounded confidence, or who more steadily maintained the respect and affections of the bar. His legal opinions are celebrated for point, simplicity, and clear comprehension of all the law and facts connected with, or bearing upon the case. As a statesman he is liberal, learned, and consistent—as a speaker, argumentative and logical, but blessed with few of the graces of oratory. But it is in the social circle, as father, brother, and friend, that he is chiefly distinguished. Few men have adorned the annals of humanity, whose lives have exhibited more of the domestic virtues, or in greater perfection—confiding—generous, self-sacrificing, and wholly devoted in his feelings and affections, he enjoys the first place in the hearts of all with whom he is connected, by the ties of blood or association.

Judge Adams is now in his fortieth year, in the enjoyment of fine

health and a vigorous constitution—upwards of six feet high, dark complexion, and gifted with a grace and elegance of person and manners rarely excelled.

W.

HON. B. MILLS CRENSHAW,

OF GLASGOW, KY.

B. Mills Crenshaw is upwards of six feet high, erect, and well formed, but slender. He was born December 6th, 1800, in the county of Goochland, Virginia. When about four years old, he emigrated with his father to Kentucky, and, after residing one year in the county of Garrard, removed and located in the county of Barren. In this county he has continued to reside, with the exception of an unimportant interval, till the present time. After having been taught the elements of an English education, in such schools as the county of his residence afforded, he acquired, under the instruction of Doctor Benjamin Thurston, and in Transylvania University, whilst it was under the presidency of Doctor Horace Holley, a good English education, and a knowledge of the Latin language. He then selected the law as a profession, and entered upon his professional studies under the supervision of the Hon. J. R. Underwood, one of the best men, and ablest jurists, of Kentucky, and was admitted to the bar in the year 1823. His fine natural abilites, studious habits, urbane and polished manners, won for him, in a few years, a large and lucrative practice. He took rank by the side of his seniors in the profession, and his safe and prudent counsels, and superior powers as an advocate, enabled him to maintain the position.

Having, in early life, studied with care the principles of government, advocated and adopted by the sages of the Revolution, his political sentiments have ever been highly patriotic and conservative. But, being naturally averse to the vexations of political life, he was not induced to yield to the repeated solicitations of his fellow-citizens to engage in the public service until the year 1840, when he was elected to the representative branch of the Kentucky legislature. It was in this year that the memorable contest for the chief executive officer of the nation occurred between Martin Van Buren and General Harrison. The tide of popular opinion in Kentucky was overwhelmingly in favor of the latter. A Whig from principle, and a sound conservative, Mr. Crenshaw advocated the pretensions of General Harrison; and, in the public discussions of the day, he laid the foundation of a solid and valuable reputation as a political debater. His course as a member of the legislature, was characterized by liberal and enlightened views of the true policy of the State, and proved entirely satisfactory to his constituents; and he was again returned a member of the same body in the year 1842.

In 1844, he was chosen an elector upon the Clay ticket, in the third congressional district of Kentucky, to vote for President and Vice-President. The canvass that preceded the presidential election of that

year, called into requisition the best talents of the State. Each of the two great political parties sent out their strongest and most popular debaters, to discuss the questions at issue between them. The result was largely in favor of the Whigs, and established, as it was then believed, the political fortunes of Kentucky beyond the power of change. This termination of a controversy involving great national questions, was attributable, in a great degree, to the eloquent and able speeches of the Whig electoral candidates.

Mr. Crenshaw was also elected to the Senate of Kentucky, from the counties of Barren and Monroe, in the same year. He served in the capacity of senator four years, with signal ability. His intellectual powers, now ripened by years, and matured by experience, exhibited ths full vigor of a wise and sagacious statesman, and the graces of high literary attainments. Among his compeers of the Senate, he ranked with the first in all the essentials of genuine statesmanship. After the expiration of his senatorial term, he was appointed by the Governor of the State, Judge of the 18th Judicial District, to succeed the Hon. Richard A. Buckner, who died in 1847. Judge Buckner was one of the most learned and able lawyers who have adorned the profession in Kentucky. It was therefore a difficult and dangerous undertaking for the reputation of any Judge to preside in the same temple where he had administered the law. But Judge Crenshaw passed through the ordeal with increased popularity as a man, and with greater and more extended reputation as a safe, profound, and learned jurist. He continued to act as Judge of the 18th Judicial District until May, 1851, when his office expired by virtue of the new constitution, which makes the office of Judge elective, and he was elected Judge of the Court of Appeals in the third Appellate Judicial District—the highest judicial station in the State.

Judge Crenshaw rested his hopes of an election *entirely* with the people, as the proper arbiters in such a case, utterly refusing to electioneer for the office by personal appeals, or otherwise—believing such a course incompatible with the nature and dignity of the office, and inconsistent with the high and sacred duties to be discharged by the incumbent. And it is to be hoped, for the honor of the State, that after-years may not see the sacred ermine soiled and polluted by the muddy waters of passion and strife, engendered by electioneering schemes and practices.

We have thus briefly and inadequately traced the progress of one of Kentucky's purest and best men, from the obscurity of humble life to one of the highest civil stations in the Commonwealth. And, in doing so, we have afforded to the youth of our glorious country an example of what may be achieved, by patient industry, strict integrity, and high moral deportment.

HON. JOHN L. BRIDGES,

OF KENTUCKY.

The Hon. John L. Bridges, the subject of this sketch, was born in Charlotte county ,Virginia, on the 23d of April, 1777, and consequently will be seventy-five years old on the 23d of April, 1852.

When he was but ten years of age, his parents moved to the then district of Kentucky,—subsequently the county of Mercer, and now the county of Boyle, and settled on and resided upon until their death, the Chaplain-fork of Salt River.

His father's name was John Bridges, and his mother's maiden name was Mary Ligans.

His parents were poor, but highly respectable in the community in which they resided. Owing to the limited circumstances of his parents, and the scarcity and defectiveness of the schools in that region in those days, he obtained but a limited and imperfect English education.

His advantages, both as regards family influences, fortune and education, were quite limited.

After leaving school he labored upon the farm of his father, until the month of July, 1797, when he conceived the idea of studying Law;—and to that end applied to Thomas T. Daviss, Esq., an eminent lawyer, and borrowed from him a few law books, which he read at his father's house, without the aid of a preceptor, and in fact, without having conversed with a lawyer on any legal proposition. In the fall of 1797, he applied to the late Samuel M'Dowell and James G. Hunter, two of the Judges of the then District Courts of Kentucky, for license to practise law.

Upon rigid examination he was found qualified to practice Law, and in the fall of the same year was admitted to practice in the Mercer county Court; so that, in the short period of five or six months, he was transferred from the plough to the bar.

In the winter of 1797–8 he moved to the town of Danville, Kentucky, opened an office, and commenced the practice of law, in the Danville District Court, and the courts of the adjoining counties. He read and studied most industriously, and attended his courts with great punctuality. He has often been known to ride from forty to fifty miles at night, in order to be at his courts in proper time. It was his invariable habit to be the first and last lawyer at court. As a practitioner, he was affable, beloved, respected, and successful, and as a man, was unusually companionable. He always made the cause of his clients his own. No exertions or trouble were too great, if the cause of his clients could be thereby advanced.

On the 8th of March, 1803, he was married to Ann P., eldest daughter of the late General John Adair, of Mercer county. General Adair was subsequently Governor of Kentucky. Judge Bridges was several times elected to the lower branch of the General Assembly of the Commonwealth of Kentucky, from Mercer county, and discharged his duties with credit to himself and with satisfaction to his constituents. In 1817 he was elected to the State Senate, from the county of Mercer.

He has continually resided within ten miles of the place on which his father settled in 1787. So popular was he with the *masses*, that he could be elected to either branch of the Legislature, whenever he chose. On one occasion, when making a race against two very popular, influential and wealthy men in the county of Mercer, for the Legislature, a *young lady* dressed herself in gentleman's apparel, and went to the polls and voted for him, under an assumed name. Bridges was of course elected!

He was appointed Circuit Judge in the early part of the year 1820, which office he held until May, 1851, when he was elected to the same office for the term of six years. He ran against two talented and influential gentlemen, but received more votes than both of them. His opponents were the Hon. John Kincaid and the Hon. Samuel Carpenter. As a man, Judge Bridges has fine native capacity—uncommonly so. There is a shrewdness, quickness and promptness about his intellect, rarely to be met with. He is a fine common law Judge, as also a good Chancellor. His mental and physical organizations are unusually fine. Few men can undergo as much mental and physical labor as he. He is unremitting in the discharge of his official duties, and he is remarkable for his promptness in attending his courts.

Judge Bridges in person is six feet in height; weighs one hundred and seventy pounds—without any surplus flesh. He is entirely erect, and walks with the tread and vigor of a man of forty years of age, though he is now seventy-five years old.

The district over which he now presides, has more suits depending in it, than any district of the State of Kentucky, out of twelve. It is his universal habit to call the entire docket, at each term of his court. It is his habit to have each cause when called, either tried, or continued for cause shown. The members of the bar, belonging to his courts, have great attachment for him personally, and much confidence in any opinion or instruction he may give in any cause. It is an unusual circumstance, for either his opinions or instructions to be dissented from, even by the members of the bar.

He has not only presided longer, but in more counties, and with more satisfaction, than any Judge who has held office in Kentucky. Few of his judgments have been taken to the court of appeals, and still fewer have been reversed. Such was the estimation in which his legal and judicial abilities were held by the Legislature, that they made him sole Judge of the General Court for many years, and until said court was abolished. He is an accurate lawyer, profound jurist, and able chancellor. He presides with dignity and urbanity, and disposes of business with ease and despatch. He is an affable and pleasant gentleman, and withal full of humor and anecdote.

Many anecdotes might be told of the humor and pleasantry of the Judge, and the ease and adroitness with which he often relieves the tedium of a dull case. But, it is deemed unnecessary to protract this sketch. Few men have been more useful, and a still fewer more beloved and respected by those with whom and for whom he has transacted business.

BENJAMIN H. SMITH,

OF VIRGINIA.

Benjamin H. Smith was born in the county of Rockingham, in the State of Virginia. His father was a plain, respectable man, and held in high estimation for his integrity and moral worth. Being a farmer and grazier by profession, and believing the cultivation of the field the most honorable of all occupations, he regarded labor, and manual labor on the farm, as a more elevated occupation than was generally conceded by the gentlemen of his vicinity. Entertaining these sentiments, it is not remarkable that he should have desired to educate his sons in habits of industry, and to teach them to regard labor as respectable. His experience with his elder sons convinced him that in Virginia he could not, in their estimation, elevate labor to that respectability to which he regarded it entitled. He therefore resolved to remove with his family to the State of Ohio, where he believed he could more successfully, in the education of his younger sons, illustrate his cherished opinions in regard to labor.

In the fall, therefore, of 1810, he removed with his family to the county of Fairfield, in the State of Ohio, where he had previously purchased a valuable farm. His youngest son, Benjamin, was then a small boy, and was immediately set to work on the farm, at such labor as boys of his age were competent to execute. At a very early age Benjamin was instructed in the first rudiments of education. He was sent to a grammar school in Ohio more than half his time the three first years of his residence there, and had become what would be denominated a rather more than ordinary English scholar. With the exception of the time appropriated to school, he was generally employed in labors on the farm, until September, 1815, when he met with an accidental wound, which no doubt gave direction to his future life.

In common, or old field schools, to which he had been sent, gaiety, merriment, mere sportiveness and childish peccadillos, were regarded in the criminal jurisprudence of the learned pedagogue, as a high crime, to be atoned for by the lash, the ferrule, or other invention of the old field schools equally well calculated to repress the pride and spirit of the young scholar. It is not remarkable, that having been the daily, and almost hourly victim of this vicious system, without ever having incurred censure or rebuke for failure in his studies, that he should have contracted an inordinate prejudice, even to loathing, of books, literary learning, and every thing connected with them. The book brought vividly to his imagination the ferrule and the lash of the teacher. From this dislike to books, contracted under the influence of the principle that boys are sent to school more especially to be flogged than to learn, he was redeemed almost by accident.

About the middle of September, 1815, while engaged in labor on the farm, he was severely wounded in the knee, which confined him to the house until December thereafter.

This confinement was to him an intolerable burthen, to be relieved

from which he had resort to various expedients. By accident a book was thrown in his way, which happened to be an interesting novel.

As a sort of desperate resort, he commenced reading, and was astonished to find in it real pleasure, and higher enjoyment than he had ever known. He soon learned to separate the book from its former associates, the pedagogue and the lash. From that period to the time of his recovery, he was constantly engaged in reading, and became anxious to obtain a good education, preparatory to the study of the law. His parents heartily approved the course he proposed to pursue, and before the close of the year 1815 he was fully inducted as an academic scholar in the University of Ohio, situated in the town and county of Athens. His pride and ambition were aroused and awakened in an unusual degree, and his laborious application to study was equal to his physical ability to endure.

He pursued an irregular course of study, and in the order recommended by the Hon. Thomas Ewing, then a distinguished lawyer of Ohio, in which course he was kindly indulged by the Professors. In the fall of 1819 he left the University, and commenced the study of the law in the office of Mr. Ewing. In the fall of the year 1821 he was licensed by the Supreme Court of the State of Ohio, of which the Hon. John McLean was a member, to practice law in the courts of that State. From that time until the succeeding spring, he was principally engaged in selecting a residence for the practice of the honorable profession of which he was a recent licentiate. In making the selection, natural attachment to the State of his nativity predominated over all other considerations. He returned to Virginia, and permanently located in the county of Kanawha, among strangers, where he has ever since resided.

Entering upon the business of life in his own behalf, necessarily led him to reflect upon the habits and principles he should adopt to secure success—and *that* he was determinately resolved to achieve. Self-reliance and the cultivation of good habits he believed essential to permanent success. As a preliminary measure to the attainment of his purposes, before he engaged in the business of life, he conveyed his patrimony to his mother, then a widow, during her life; and sternly resolved to eschew all intoxicating liquors, as well as games of hazard. Thus provided with self-reliance, fixed habits of sobriety, but without experience in business, or pecuniary means, and shortly after he attained his majority, in March, 1822, he commenced the practice of law in the county of Kanawha, and in the State of his birth. It required some energy to sustain himself under these disadvantageous circumstances. But superadded to these was an event, perhaps the most painful of his life. A few days after his arrival, some young men, without provocation or cause, and without even the pretension of a charge of moral turpitude or misconduct, adopted a scheme calculated and designed to bring him into contempt and ridicule with the people among whom he had settled. Their identity was well concealed, and the effect was to make him distrust all. To avert the effect of this wanton assault he withdrew from all social intercourse, and devoted himself to the study of his profession, and a very few friends whom he dared to regard as such. His prompt attention to business, his industry in the preparation and management of

the few causes intrusted to his care, his abstinence from all the vices regarded as incompatible with good business habits, secured to him the first year a competent support, and by the close of the second year had improved his fortune and left him in possession of a large and profitable practice. The measures used for his destruction, it may be truly said in his case, were a principal instrumentality in his more speedy success. It made his office a room of study, instead of idle pleasure, and it is said many clients selected him to evince their strong dissatisfaction at the wanton attack made secretly upon an unoffending stranger.

His predilections were for the law, and at no time has he manifested any unusual inclination for public life. He entertained the opinion that political ambition, and love of popular favor, could not be indulged, without serious prejudice to a successful career in his professional duties. He therefore resolved in no event to be seduced from the steady pursuit of his profession, before the lapse of at least ten years in the practice of it.

In the summer of 1833 a vacancy of one year happened in the State Senatorial district where he resided. That district was composed chiefly of the counties in which he practiced, and probably two-thirds of the people of the district were politically opposed to him, who had been a consistent Whig. Urged by personal and political friends in most of the counties, he became a candidate for the vacancy, and the voters were kind enough to disregard their political predilections and elect him by a large majority, against a gentleman of high respectability, and who had served his country in the councils of the nation with much distinction. Such an expression of popular favor he could not regard but with sentiments of gratitude and pride.

With this session commenced a most exciting period of political history. The year preceding, General Jackson had issued his memorable proclamation, in the general principles of which Mr. Smith concurred, and altogether heartily approved the act. The year 1833 Gen. Jackson commenced open war on the bank of the United States, and in the same year withdrew the public deposits from the vaults of that institution. These measures came up by joint resolutions, the former indirectly, the latter directly, in the Virginia Legislature, and were the subjects of a most heated and protracted discussion in each branch of that body. Mr. Smith entered into this discussion with zeal, and all the impetuosity of his nature. He carefully prepared and presented a condensed legislative and judicial history of Banks of the United States, from the foundation of the government, and affirmed, and by elaborate argument maintained the constitutionality of such an institution. He also urged its necessity as a safe fiscal agent of the general government.

The resolutions before the Legislature were introduced solely to condemn the rash and illegal act of General Jackson in removing the deposits. The resolution denying the constitutionality of the bank was introduced by his friends to diminish the force of the censure involved in the original resolutions. The Virginia politicians were obliged to concur in the resolution against the bank, and he who maintained the constitutionality of that institution had a powerful tide of the popular current to resist. The bank, therefore, had few advocates, and he was regarded an adventurous politician who would essay to stem so strong a current.

Armed with conscious rectitude, he maintained his ground with all the industry and ability he could command.

At the close of this session the time for which he had been elected expired, and in the spring of 1834 an election for the same Senatorial district was to be made for the full term of four years. Against his own wishes he was again announced as a candidate and was elected without opposition.

These four years for which he was elected were particularly distinguished for the variety of exciting political questions which in some shape or other came before the Legislature. Mr. Smith participated in all of them, and in every instance maintained the position which he regarded to be right, with firmness and zeal.

At the first session of this term he was placed at the head of the committee of general laws, to which is submitted for revision and amendment every act of a general nature. This position is perhaps more onerous and responsible than any other in either branch of the Legislature. He filled this place during the term of his last election, and performed all its duties with promptitude, and entire satisfaction to the country.

For many years preceding his election the people of trans-Alleghany Virginia were considerably agitated by the imperfections of the land titles, and the land system under which titles had been procured. In the year 1831 the first act passed which formed the foundation of a system of reform, but that act fell far short of the remedy required for existing evils. The uncertainty of the titles prevented the improvement of the country, and intimidated emigrants from investing money in the unimproved lands, of which there was a very large quantity. The act referred to was an initiatory step. But much more remained to be done to mature the system. In the practice of the law, Mr. Smith had learned the defects of the original land law provided for Western Virginia, and had ascertained to some extent the legislative remedies essential to perfect the defective titles. Representing a people who had especially suffered, and who were subject to daily prejudice from defective land titles, and feeling an interest in the prosperity of the country, he was impelled by the strong obligations of duty and patriotism to apply all his ability and industry in maturing a system which would give quiet and repose to the landholder, and general confidence in the land titles of the west. The measures he proposed were harsh in their character, but the policy and actual condition of the country imperiously demanded them.

It was, however, a matter of much difficulty to get measures of this kind through the Virginia Legislature. By the organization of the government, the East, although a minority of the people, had a large majority of representatives. They have almost an instinctive abhorrence to extreme legislation, and being wholly ignorant of the state of the land titles in the West, it was difficult to convince them that the existing state of things justified the extreme legislation demanded by the West. From these causes, the measures of reform were necessarily slow, and only obtained by animated perseverance, thereby gradually wearing off Eastern prejudices, and fully impressing them with the necessity as well as justice of the remedies proposed. At each an-

nual session of the last term of Mr. Smith, he prepared and succeeded in getting through the Legislature some act in advancement of the proposed system. In the last session of his term, in the year 1838, after much preliminary research, he prepared a final act, which it was believed would consummate the system, and give repose to the occupant and confidence in the land titles of the West.

This act he most earnestly commended to the wisdom of the Legislature, and, finally, by one common and energetic effort on the part of the Western members, it became the law of the land. The effect of these several acts, and especially the latter, has vindicated their propriety, and the reasons by which they were urged upon the consideration of the Legislature. It may be asserted with truth, that no acts of legislation, since the foundation of the State government, has had an equally potent effect upon the increase in wealth, population, and comforts of trans-Alleghany Virginia. Mr. Smith entertained intense anxiety to see the conclusion of this system, and, after the last act passed, he regarded the work done, and determined to withdraw from public life, and devote himself to his private affairs, which, from absence and neglect, had to some extent fallen into a state of dilapidation. He advised his constituents of his purpose to decline a re-election. Others had thereupon presented themselves to the people, and canvassed the district. About ten or fifteen days before the election, and while in the Senate, and more than three hundred miles from home, an appeal was sent to him from friends in different counties of the district to assent again to be a candidate. He immediately returned home, where he arrived about a week before the election, and found a state of things existing, and which he could not control, impelling him to acquiesce in the wishes of his friends. There was not time to give notice to the entire district. The circumstances were, therefore, very inauspicious to success; yet he was elected, and served one session, and then resigned his remaining three years. From this period, he engaged with renewed energy, and in a more extended circuit, in the practice of the law.

In the year 1832, a branch of the Supreme Court of Appeals was established in Western Virginia. The establishment of this court will be esteemed an *era* in the Western bar. There was no court in the State where any considerable number of them could meet. All such courts were held at Richmond, and distance excluded Western gentlemen from enjoying their advantages. The Western branch of the Court of Appeals brought together the most experienced of the Western bar and the distinguished lawyers of the Court of Appeals at Richmond. This furnished a school of emulation for the Western members, in which they have rapidly improved, and very much elevated the standard of legal ability.

Mr. Smith immediately availed himself of the benefit of this Western Court, in which he has been a constant practitioner to the present time. From the time of his resignation, in 1839, he gave his undivided attention to the practice of law in the Nisi Prius State Courts and other Court of Appeals. He had a full practice in an extended circuit, which occupied most of his time actually in court or in the saddle. Some provisions in the acts concerning lands, before stated, hurried

into court many land causes of importance, and in many instances very complicated. In most of these cases, in the circle of his practice, he was engaged as counsel. In this particular practice he acquired, perhaps, a higher reputation in the country than in any other branch of the law, and for which he is, no doubt, much indebted to his representative labors in the Senate in reforming the land law of the State.

In the middle of the year 1849, unexpectedly, and without solicitation, he received from the President of the U. S. the appointment of District Attorney of the U. S. Court, for the Western District of Virginia. This commission he accepted, and still holds.

For the last forty years an inciting subject of controversy has existed between the people of eastern and western Virginia, which involves the relative political power of the two sections in the Legislature of the State. In the beginning it rather originated between the large and the small counties of the State, and particularly the small counties of eastern Virginia. By the first constitution, representation was by counties, without reference to wealth or population, each being allowed two members. This gross inequality led to a convention, in which the entire west and the large counties of the east concurred. This convention met, and closed its labors early in the year 1830. The great question discussed by that body was the basis of representation. On the part of the people west of the Blue Ridge it was contended, that the true Republican basis was the free white population of the State. On the part of the east it was insisted, that population and taxation, combined, was the legitimate basis for a good and stable government. After a most animated and angry discussion, representation was arranged by geographical divisions, without any principle, and much to the prejudice of the trans-Alleghany sections. The arrangement was justly obnoxious to the bitter maledictions of the people of that section. In the apportionment of representation, the number allotted to her was less than she was then entitled to, and no arrangement made to change substantially the representation, however gross the inequality might become, either from increase of wealth or population. The trans-Alleghany was that part of the State to which all looked for rapid increase in both wealth and population, and thus time, instead of relieving the injustice, necessarily added to the iniquity of the provision. The people of this section were aroused by the act almost to revolution, believing it to have been a wanton exercise of powers on the part of the east. They, however, quietly acquiesced for a time, fully and resolutely determined to renew the contest at the proper occasion, and to continue the struggle until the wrong was righted. In all this, Mr. Smith, who was then a young man, sympathised with his western brethren, and held himself ready to give all his ability to the work, when the proper time should arrive.

In the early part of the year 1850, another act was passed, submitting to the people of the State the question of convention or no convention; but the rule of representation in the convention was arbitrary, and gave a majority of seventeen to the people east of the Blue Ridge, with a majority of nearly 100,000 white persons west of that ridge.

Mr. Smith opposed the convention before the people, because of the inequality of representation provided by the law. The convention

prevailed, and, by other provisions of the law, an election for members was directed to be held in August, 1850. He was a candidate for a place in the convention, and was elected. The convention met in the middle of October; and, with the exception of a recess of two months, continued in session until the 1st of August, 1851.

Immediately upon the organization of the body, it was manifest that the basis of representation was the great question of the convention and of the State, absorbing the consideration of every member, and the entire community. Near five months of the session were occupied in its discussion, and efforts at compromise. It was finally adjusted, to the satisfaction of the great body of the people west of the Blue Ridge, and much to the discomfiture of a large portion of eastern members, and the dissatisfaction of a large portion of the eastern people.

The result was, no doubt, a most happy issue for the prosperity, progress, and, perhaps, the integrity of the State. In this whole struggle Mr. Smith participated with a most hearty good will in behalf of his western constituents. And it is compliment enough to say, they were satisfied with the part he performed, and gave to him and his colleagues an almost unanimous approval.

The same reasons which have prompted the foregoing sketch may also justify a brief notice of the characteristics which have distinguished Mr. Smith as a lawyer; for it was through his profession that he attained whatever of advancement or credit he has had the fortune to reach. He seems to have had the good judgment to fix his mind early on a single object, and the resolution to pursue it steadily through life; and this object was proficiency in the knowledge of his profession. As he had strength of constitution and great assiduity, it could hardly fail to happen that he should attain a large share of success.

The most fruitful source of litigation in Western Virginia, during the last twenty or thirty years, has been the unsettled state of the land titles. It is well known that the public land laws of the State have long been the opprobrium of its legislation. These lands, situate mainly west of the Alleghany mountains, were by a fatal policy patented to individuals by grants so indeterminate, that nothing but lawsuits could ever have settled the rights of the parties under them. And thus the government, whose prime function is the administration of justice and the promotion of concord, became in effect a fomenter of dissension and endless litigation among its own citizens. By such unfortunate legislation this portion of the State, perhaps the richest part of the Atlantic States in mineral wealth, and destined hereafter to exert a controlling influence on the policy of the State at large, was left a prey to that worst enemy to the advancement of society, insecurity of property. The natural consequences followed. Industry languished, the arts were neglected, all measures of progress suspended, and the peopling of the country and the opening up of its natural resources put back the third of a century. The part Mr. Smith took in the legislature, in perfecting that series of measures by which titles have been quieted and the foundations of the public prosperity laid, by giving security to private property, have already been alluded to in the preceding sketches. But the most arduous and important of his professional labors were given to the investigation and settlement of questions

growing out of this whole series of land laws. The practitioner had to grope his way through successive acts, obscure, imperfect, confused, and often contradictory, altered to suit each new variety of ignorance from year to year, and unsettling first principles at every change. He had to furnish himself with a liberal share of learning in the law relating to real property, the most difficult branch of the profession, before he could begin to expound those dim rescripts. Mr. Smith is admitted to have had a large share in settling before the courts the questions of principle growing out of this perplexing litigation. Through this uninviting field has he struggled his way manfully forward to his present position. For his success in this career it is clear he owed little or nothing to early culture, or to the accidents of life; everything to a fixed purpose, great assiduity, and a vigorous understanding, not quick in its operations nor clear in its first perceptions, but resolutely tenacious of every subject until it is mastered, and sure in the end to work itself clear. His power of abstraction is perhaps the most remarkable of his mental gifts, and he is admitted to possess this in superior measure. It is rare to find a man of early training and severest mental discipline who possesses this faculty in a higher degree. He is not fluent of speech naturally, nor has much practice made him a ready speaker. Neither has he any of the graces of diction; but a certain cogent, weighty, compacted argumentation, joined to much earnestness of manner in his happier efforts, suffices to make amends for the want of other attractions to his elocution. Admiring strength as of the highest attributes of human understanding, he never abandons substance for the pursuit of ornament, and his highest ambition is always well satisfied if he can present vigorous thought in simple and perspicuous language. In cases of magnitude, involving character or property, or other important interests, he identifies himself with his cause and his client, and maintains them with zeal and untiring industry, and with fidelity distinguished for its pertinacity. Near akin to this is another quality he possesses in an eminent degree, and perhaps the most valuable of all, energy, or an uncontrollable will to accomplish whatsoever he regards worthy of being done and has resolved to execute. The interposition of difficulties never checks his efforts, but arouses to higher exertions; and it is no part of his nature to yield while success is practicable.

In all the relations of life he has sustained a fair character, and secured the esteem of his acquaintance and friends.

HON. SAMUEL HALL,

OF INDIANA.

Samuel Hall, son of John and Elizabeth Hall, was born on the 1st of June, 1797, in Somerset county, in the State of Maryland. In the year 1805, his father moved with his family to the West, and located in Jefferson county, Kentucky, where he died in the year 1822.

His mother was a Ward, sister of the late David L. Ward, one of

the most enterprising men of the age, who amassed an immense fortune by his individual efforts. She still lives in the enjoyment of good health, in the ninety-fifth year of her age.

At the time the subject of this memoir was a boy, there were but few schools in the State of Kentucky. The test of qualifications in a teacher, in those days, was his handwriting. If that was good, no further inquiries were made. If bad, no qualifications, however exalted, could secure him a place as a teacher. All the schooling the subject of this memoir received, was in a log cabin on "Flat rock," in Jefferson county, Kentucky. He had, however, pious parents, who instilled into him the principles of virtue, and a strict regard for truth.

In the year 1815, while yet a boy, he, with the consent of his parents, left his home in Kentucky, and settled in Princeton, Gibson county, Indiana. Through the recommendation of friends, he obtained a situation as clerk in a country store. His employer soon after dying, he was again out of business. Being entirely out of funds, he contracted with the late Gen. Robert M. Evans, then clerk of the Circuit Court for Gibson county, to write in his office. By the terms of the contract young Hall was to get his board, and fifty dollars per annum; a little over four dollars per month. While thus engaged he employed all of his leisure hours in the study of the law. By the most unremitting perseverance, he prepared himself for the practice in seventeen months. Not seventeen months devoted to study; but the spare hours in that time from his daily employment. His practice was, to rise early in the morning, and study till breakfast, write in the office till four o'clock P.M., and then resume and continue his study till twelve, and sometimes one o'clock at night. Often has he trimmed the midnight lamp while poring over Blackstone, Coke upon Littleton, Plowden and Bacon. He had no instructor, no guide, other than the books he borrowed. Though the path before him looked dark and gloomy—without funds—without education—and without patronage, yet he never wavered in his purpose. His course was onward. He had determined, if he lived, on success, and success crowned his efforts. In 1820, he obtained a license and commenced the practice of his profession, and such was his attention to business, that he soon obtained a large and lucrative practice. Though he was not an eloquent speaker, yet his earnest manner always commanded respect, and engaged the attention from both Court and Juries. He made it a points to study and investigate in extenso every litigated case in which he was employed. He never trusted to chance, what he could reach by vigilance and study. He was always ready when his cases were called, to take them up and dispose of them. In the course of time, he acquired the enviable reputation of being an *honest and successful* lawyer. Early in his professional career, he adopted a rule from which he never departed—and that was, to make an effort to bring about a compromise, without suit. Many persons, now residing in South-western Indiana, are living witnesses to his success in restoring a friendly relation between disputants, who, if they had not been checked in time, would have embarked in law suits, that might have taken years to settle, and probably at the ruin of the parties.

In the year 1823, he was admitted as an attorney and counsellor of

law, in the Supreme Court of Indiana, and in the District Court of the United States. He continued the practice of his profession, without interruption, until the year 1829, when he yielded to the solicitations of his friends, and became a candidate for the Legislature. He was elected over his opponent by a large majority. He was re-elected in the year following to the same office, and was appointed Chairman of the Judiciary Committee. In that capacity he introduced many reforms in the practice of the law.

In 1832, he was elected, by the General Assembly, President Judge of the Fourth Judicial Circuit of the State of Indiana. He held this office for about two years, when, to the regret of the bar and community, he resigned it.

It is a part of the history of the times, that in the year 1836, the western country ran wild on the subject of internal improvements. The State of Indiana embarked in schemes which would have cost, when finished, thirty millions of dollars. A Board of Public Works, consisting of nine members, was created by the General Assembly. This Board had extraordinary powers. The subject of this memoir was chosen as a member. He entered upon the discharge of the duties assigned him in the spring of 1837. From the very onset, he attempted to check extravagant appropriations of money. He made efforts to confine the expenditures within the means under the immediate control of the Board. He warned the friends of the system of the ruinous consequences of entering into engagements beyond their present means to meet. That such a course would, in the end, break down the system, and bankrupt the State. But his warning voice was disregarded. A mania for a grand system seemed to have blinded the great mass of the community. Finding his views opposed, at the end of seven months he resigned the office as a member of the Board. At a subsequent period, after the system had exploded, the Legislature appointed a committee to investigate the subject, and the conduct of the members of the Board to whose management the system had been confided. That committee was composed of three Whigs and two Democrats. They spent months in the investigation of the matter. They at last made a report to the General Assembly. Some members of the Board they censured. Against others they recommended suit to be brought, in the name of the State. As respects the subject of this memoir, the following is extracted from the journals of the Senate:

"MR. SAMUEL HALL.

"This gentleman served as a member of the Board of Internal Improvement, and acting commissioner on the Central Canal, for eight or nine months. During this time, he was engaged in active service, attending to all the arduous duties imposed on members of the Board of Internal Improvement at that period. The act of 1836 allowed to members of the Board a compensation of $2 per day, and reasonable expenses. By a somewhat liberal construction of the act, and in the opinion of the committee an unjustifiable one, the Board construed this act to allow them $2 per day for the entire year, as appears from the testimony of Mr. Yandes, Gen. Long and others; the entire pay would amount, at this rate, to $730.

"Not being able to keep small accounts of expenditures with convenience, by an equally liberal construction of the act, the Board fixed the rate of their

daily expenditure at $1 50 per day for the entire year, making total allowance for expenses the sum of $547 50. By this arrangement, the annual salary of each member of the Board was raised to the sum of $1,277 50. It is but just to remark, that one member of the Board justifies his allowance by the usage established by members of the Legislature under a similar act, in taking their per diem for holidays and Sundays during the session. So far as the holidays are concerned, your committee think that the case is fully in point, and that those members who vote for adjournment at Christmas and New-year's day, should by no means charge the per diem for that time. We are admonished by this instance, by which one abuse is justified by another, to set better examples in the future. Mr. Hall, in this matter, stands on high ground: he performed duties equal, or nearly so, to those of any other member of the Board of Internal Improvement, and received his per diem for the time actually engaged in the public service, charging no more than actual expenses, making a total for eight months' service, of a little less than $95. We find no charge against him whatever."

In the year 1840 Judge Hall was elected Lt. Governor of the State of Indiana for the term of three years. Being *ex-officio* President of the Senate, he discharged the duties as presiding officer of that body for two sessions *only*. At the close of the first session, the Senate, in token of respect, unanimously adopted the following resolution:

"On motion of Mr. Chamberlain, it was

"*Resolved*, That as an expression of the regard we entertain for Lieut. Governor Hall, President of the Senate, we extend to him our thanks for the dignified, impartial and highly satisfactory manner, in which he has presided over our deliberations."

At the close of the second session, the Senate unanimously adopted the following resolution:

"On motion of Mr. Davis,

"The orders of business were suspended and leave granted him to introduce the following resolution:

"*Resolved*, By the Senate unanimously, that the Hon. Samuel Hall, President thereof, is entitled to our thanks for the impartiality, dignity, and ability which has characterized his Presidency, during the present session of the General Assembly;

"Which was adopted."

The reason why Judge Hall did not take his seat as President of the Senate the third session to which he was elected, may be inferred from the following proceedings, which are taken from the Journals of the Senate:

"On motion of Mr. Collins,

"The orders of business were suspended, and leave granted him to offer the following, which were unanimously adopted:

"*Whereas*, In the dispensation of an inscrutable Providence, it has pleased the Giver of all Good to visit the Hon. Samuel Hall, Lieutenant Governor of this State, with a severe domestic bereavement, by taking from him and his family, his excellent consort, whose exemplary life and many virtues have endeared her to a numerous acquaintance, and shed lustre within her sphere, and given happiness to all around her: Therefore,

"*Be it unanimously resolved by the Senate*, That the melancholy affliction of the Hon. Samuel Hall, in the loss of his wife, is deeply felt by the Senate.

"*Resolved, unanimously*, That the sympathy of the Senate be tendered him, and that the Senate's sincere condolence is hereby assured him in the deeply afflicting dispensation it has pleased Providence to visit upon him.

"*Resolved, unanimously,* That the Secretary of the Senate be directed to communicate a copy of the foregoing preamble and resolutions to the Hon. Samuel Hall."

Judge Hall was called upon to preside over the deliberations of the Senate of Indiana at a time when party spirit raged at its highest. It required stern integrity and a firm resolution to prevent a bias in favor of party predilections. But he had presided but a short time when his political friends ascertained that nothing was to be expected from him but a strict and impartial discharge of his duty.

Having accumulated a large estate by his assiduity to business, Judge Hall gave up the practice of the law, as a business, about the year 1840; and has not since given much attention to the legal profession.

In the year 1849 it was decided by the people of Indiana to call a convention to remodel their constitution. In the year following, an election took place throughout the State for the election of Delegates to the Convention.

It may be proper here to premise, that Judge Hall has always been a consistent Whig. He was appointed one of the Vice Presidents of the great Whig Convention which assembled at Nashville in the year 1840. In the year 1844 he was appointed a Delegate to the Baltimore Convention, and after reaching that place was chosen one of the Vice Presidents; which latter Convention nominated Henry Clay for President of the U. S. With a knowledge of these facts, the Democrats, as well as the Whigs of Gibson county, with great unanimity, united in placing in nomination, and afterwards electing him a Delegate to the State Convention to amend the constitution.

That Convention assembled on the first Monday of October, 1850. It was Democratic, nearly two to one. Judge Hall was placed as chairman of one of the most important committees—"On State Debt and Public Works."

Identified with the prosperity of his adopted State, he felt a deep interest in looking forward to that period of time when Indiana shall be out of debt. He made a labored calculation, based upon the future resources of the State, by which he proved with great clearness, that in 16 years, the last dollar of her indebtedness will be paid off. In order to prevent a diversion of the revenues of the State he drew up and reported the section which provides that "All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may, at any time, remain in the Treasury, derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than Bank bonds; shall be annually applied, under the direction of the General Assembly, to the payment of the principal of the Public Debt."

He also reported another section, which prevents any new debt being contracted on the part of the State, except to meet casual deficits in the revenue. Both of these sections were incorporated in the new constitution. Thus, when Indiana wipes out her present indebtedness, (which will be done in a few years,) she cannot again involve herself by embarking into new schemes of public works.

Judge Hall has, for many years, contended that it was wrong in the

fundamental laws of a country to allow any person to become answerable, as security, for the debt of another. He says, the contracting parties being alone interested in the PROFITS growing out of the contract, the one in selling, the other in purchasing, *they alone* should run the risk of A LOSS. He brought the subject before the Legislature of Indiana, in the year 1831, but the doctrine being new, did not meet with much favor. He brought the subject before the Convention in 1850. As chairman of the committee to whom the subject was referred, he reported the section here appended. It was sustained by a respectable minority in the convention, but was voted down by the majority. He thinks the time will arrive when it will be adopted as the law of the land.

The section above referred to reads as follows:

"No man shall be held to answer for the debt, default or miscarriage of any other person upon any contract entered into from and after the year 1860, except in cases where executors, administrators, guardians, trustees, and public officers are required to give bond and security, and where security is given to persons acting in a fiduciary capacity."

BROMFIELD RIDLEY

OF RUTHERFORD COUNTY, TENNESSEE.

CHANCELLOR RIDLEY is the second son of Dr. James Ridley and Elizabeth Taylor Lewis, both of whom still live at the advanced ages of 80 and 69, in the village of Oxford, Granville county, North Carolina. Bromfield Ridley, the subject of this memoir, was born 1st August, 1804. His father's means were limited, and regarding the education of his sons as more important to them than the bestowment of fortune, he devoted his professional income very much to this object. He was prepared for college under the tutelage of Mr. Ransom Hubbell, a most accomplished classical scholar, who for a long time occupied the position of President of the Oxford Male Academy.

In July, 1820, he made his matriculation in the University of North Carolina, at Chapel Hill, where he continued until 1824. In the beginning of his collegiate career, (which occurred during the Presidency of the lamented Dr. Joseph Coldwell,) in the distribution of honors awarded amongst his class, he received, with others, the first distinction, but afterwards (perhaps) in the Sophomore class lost his position by having participated in a rebellion against the college authorities. In company with fifteen others he was suspended for four months on his refusal to make suitable concessions to the Faculty.

At the expiration of the term he returned to the University and was graduated with the class of '48 in June, 1824.

No class has been graduated since the foundation of the University which turned out a greater number of distinguished men than the graduating class of 1824. Amongst others may be mentioned the names of Hon. William A. Graham, Ex-Governor of North Carolina, and the

present Secretary of the Navy, under Mr. Fillmore's administration, Hon. Mathias E. Manly, and Hon. Augustus Moore, two of the present Judges of the Supreme Courts of North Carolina, Hon. David Outlaw, at present a distinguished member of Congress from the Butie District in North Carolina, Hon. David L. Swain, Ex-Governor, and at present President of the University of North Carolina. This was the last class taught by Bishop Otey, of the Diocese of Tennessee, during his tutorship at Chapel Hill, and the last taught by Professor Denison Olmstead, who soon after resigned his Professorship of Chemistry and Mineralology in that University, and was elected to the Professorship of Mathematics in Yale College, vacated by the death of the lamented Fisher.

The subject of this memoir soon after his graduation commenced the study of medicine in his father's office, but abandoned it in a short time and repaired to the residence of Hon. Walden N. Edwards, of Warren county, North Carolina, who for so long a time had honored and been honored by being elected and serving the Granville District as their representative in the Congress of the United States. He continued to prosecute the study of law under the direction of Mr. Edwards, for twelve months, and then repaired to the law school of Chief Justice Leonard Henderson, near Williamsboro, in the county of Granville, N. C. Here he was associated with several students who have since become eminently distinguished in their profession. Amongst others we may name Hon. Richard M. Pearson, now one of the Supreme Judges of North Carolina, elected, if the writer is not mistaken, to supply the vacancy on the bench produced by the death of that great lawyer, William Gaston.

Chancellor Ridley remained at the law school of Judge Henderson until 1826, when he was licensed by the Supreme Court of North Carolina to practice law. Without seeking to practice in his native State, he immediately afterwards removed to the State of Tennessee, which was believed to be a more suitable theatre. Having located at McMinnville, in the county of Warren, and being short of pecuniary means, he was strongly impelled to devote himself with energy to the practice of his profession. The location turned out to be a good one; he soon obtained a lucrative practice. In 1829 he was married to Miss Crosthwait of Rutherford. In 1832 he was appointed by Governor Carroll, Attorney General, for the Fifth Solicitorial District. In 1835 he was elected to represent Warren county in the Legislature.

This was a most important session of the Legislature. The State had adopted the constitution of 1834, and this was the first session after its ratification. The people called into this Assembly their most effective men. Whilst the subject of this memoir was not distinguished as a talking member, so much as a working member, and during that session of the Assembly, his coadjutors will attest that no member of that distinguished Legislature rendered more invaluable service to the State by his counsel and energetic co-operation in re-organizing the State Government, and in building up the superstructure on the foundation laid by the constitution.

During this session, he demonstrated by his action that he had no particular love for majorities, or rather *fear* of minorities; for in voting on the celebrated preamble and resolutions introduced by Mr. McLane,

the object of which was to nominate Judge White for the Presidency, he voted against them in a minority of 11 out of 100 members.

After the adjournment of the Legislature of 1835–6, instead of aspiring to the higher political honors which his friends believed were in his reach, but for which he himself declared he had no taste, he returned to the laborious practice of his profession, until January, 1840. The Legislature of that year established a fourth Chancery Division, and he was elected to the office of Chancellor unanimously. The tenure of the office by the Constitution is for eight years. At the expiration of his term the Legislature of 1849, composed of a large majority of the party in politics with whom he did not sympathize, re-elected him to the Chancellorship without opposition, which is the highest evidence of his acceptability to the profession, and to the country, and of his fitness and qualifications to discharge the high functions of the office.

Whilst the political sympathies of the Chancellor have always been with the Democratic party, and he has been firm and consistent in his adherence to their doctrine, upon principle, he never permits himself to participate in street discussions or political excitements. Pursuing the even tenor of his way under the ascendency of either political party, he indulges his taste for professional study, and devotes himself to the performance of the laborious duties of his office with untiring energy and enthusiasm.

The Chancellor has been called recently, or within the last three years, into a new field of labor. He was elected by the Trustees of Cumberland University at Lebanon, to a Professorship of Law attached to the University, and in that Department is associated with the distinguished Judge Green of the Supreme Court, and that learned jurist and accomplished Professor, Hon. Abraham Caruthers. This law school, which is in its infancy, already numbers 65 pupils.

Whilst Judge Caruthers, having resigned his position on the Circuit Court bench, gives his undivided attention to the school, Judge Green and Chancellor Ridley retain their respective offices, and by suitable arrangement of their respective Courts one of them is almost always in the law school. The subject of this memoir is distinguished amongst his acquaintances for his laborious habits, and the energy of his character. He concurs with Goethe in his sentiment, that the great difference between men is energy, invincible determination. *That*, that quality will do any thing which can be done in the world, and no talents, no circumstances, no opportunity will make one a man without it.

This memoir would be incomplete if we were to omit the admirable morality of the Chancellor's character. He has long been a professing Christian, is a member of the Cumberland Presbyterian Church, and takes much interest in the doings of its ecclesiastical judicatures. Has sympathized too, even to enthusiasm, with the benevolent actings of this model institution of the nineteenth century, the Sons of Temperance. The Grand Division of Tennessee, at its annual meeting in October, 1850, elected him to the chief office of G. W. P. for the State, and that, too, in his absence and without his procurement—an honor upon which he places a higher estimate than any he has ever received from his fellow-citizens. He is now in his 47th year, and his equanimity of temper, robust constitution, and temperate habits, promise him a long life of usefulness.

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